IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8378 of 2021

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Shivdani Prasad Singh, aged about – 78years, (Male), son of Ram Kirpal Singh, Proprietor of M/S Jai Shree Carbon Industries, I/A Barauni, Plot – Tilrath, P.S. - Barauni, District – Begusarai, Bihar-851211 ------- Petitioner

Versus

1. The State of Bihar
2. The State of Bihar through, the Principal Secretary, Commercial Tax Department, Government of Bihar.
3. The Assistant Commissioner Commercial Taxes Begusarai, Bihar.
4. The Joint Commissioner, State Tax Depatment, Begusarai, Bihar.
5. The Secretary, Finance Department, Govt. of Bihar.

------------------- Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Apurva Kumar, Advocate
For the Respondent/s	:	Mr. Pawan Kumar, A.C. to A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 07-07-2021

Petitioner has prayed for the following relief(s):

a. for directing the respondent's authorities to act according to the State Government issued notification vide SO NO 416 and S.O.NO. 418, dt. March 1977 and SO NO. 231, SO NO. 233 dt.4th of March 1978 for the first time and Bikri Kar/B/2006/76 and such type of notification as issued time to time by State Government and further to refund the tax amount as recovered by petitioner during the period of tax holiday, in violation of State notification notified time to time for boosting/flushing the industrial development in State.

b. for directing the respondent authorities to decide on several representation/commute as served by the petitioner on respondent authorities and further to refund the non taxable amount amounting to tune of rupees 17250.00/- (for the year 1979-80) rupees 26300.09/- (for the year 1980-81), and rupees 1,39,0368.08/-(for the year 1981-82) all the amount are excluding interest.

c. for directing the respondent's authorities to decide/disposed of the pending representation/application for refund of the tax amount as recovered by petitioner during the period of tax holiday, in violation of several State notification notified time to time for boosting/flushing the industrial development in State.

d. for directing the respondents to issue refund of the petitioner as till date there are several refund with interest which is yet to be paid to the petitioner and that too despite several representation/reminders by the petitioners.

e. for issuance of an appropriate writ for commanding the respondents to act upon the latest representation dt.27.02.2020 and LN dt.1.09.2020.

f. for issuance of an appropriate writ for commanding the respondents to act as per the provisions of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertaking Act, 1993 while considering the payments of refund to the petitioner.

g. for directing the respondent authorities to issue the refund order as per rule with an interest of 1.5% monthly on the amount of sale tax deposited from date till the date of final refund.

h. for issuance of an appropriate writ for commanding the respondents to act in accordance with law and to pay accumulated interest till date to the petitioner in accordance with law.

i. for any other reliefs for which petitioner is entitled during the course of arguments under law as well as facts.

Learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned to consider and decide the petitioner's request, which is pending consideration for refund of the amount under the provisions of the Bihar Finance Act, 1981.

As prayed for, we dispose of the present petition in the following mutually agreeable terms:-

(a) Petitioner shall appear before Respondent No. 4 namely the Joint Commissioner, State Tax Department, Begusarai, Bihar on 9th of August, 2021 at 10:30 A.M., if possible through digital mode;

(b) Respondent No. 4 shall decide the case of the petitioner on merits after complying with the principles of natural justice;

(c) Opportunity of hearing shall be afforded to the parties. Also, opportunity to place on record all essential documents and additional materials in support of the claim shall be afforded to the parties, if so required and desired;

(d) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(e) Respondent No. 4 shall decide the case on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

(f) Liberty reserved to the petitioner to challenge the order, if required and desired;

(g) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(h) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(i) We have not expressed any opinion on merits and all issues are left open;

(j) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

The instant petition sands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2021
Transmission Date	