IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10011 of 2021

==

Lumbani Beverages Private Limited a company incorporated under the provisions of the Companies Act and having its Factory at H-2, EPIP, Industrial Area, Hajipur, Vaishali, through its Director Manoj Khilani, aged about 57 years (male), Son of Shri Lakshmi Khilani, Resident of P-214, CIT Scheme, VI-M, P.s.- Phulbagan, Kolkata, West Bengal-700054

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001
2. The Commissioner, Commercial Taxes Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna- 800001
3. The Additional Commissioner (Taxes) Commercial Taxes Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna- 800001
4. The Additional Commissioner, Saran Division, Chapra, Government of Bihar
5. The Deputy Commissioner of Commercial Taxes, Hajipur Circle, Hajipur, Vaishali - 844101, Bihar

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
For the Respondent/s : Mr.Lalit Kishore (Ag)

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

(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.)

WEB COPY

Date : 29-07-2021

Counsel for the petitioner has prayed for the following relief(s):

"i) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents to refund an amount of Rs.24,55,026/0, along with interest at prime lending rate, which was recovered by the Respondents with respect to year 2007-2008 under section 47 of Bihar Value Added Tax Act, 2005 by way of attachment of bank account during pendency of the appeal before Joint Commissioner of Commercial Taxes, Tirhut Division against audit objection regarding short payment of VAT.

ii) This Hon'ble Court may further adjudicate and hold that the pursuant to the order dated 10.05.2016 passed by Deputy Commissioner of Commercial Taxes, Hajipur rejecting the audit objection regarding short payment of VAT and dropping the proceeding against the petitioner with respect to year 2007-2008, the Respondents were legally obligated to refund the amount of Rs. 24,55,026/- to the petitioner forthwith.

iii) This Hon'ble Court may further adjudicate and hold that the action of the Respondents in not refunding the amount of Rs.24,55,026/- with respect to the year 2007-2008 is completely unjust, illegal and de-hors the provisions of the Bihar Value Added Tax Act, 2005.

iv) This Hon'ble Court may further

WEB COPY

adjudicate and hold that the since there is no VAT liability of the petitioner for the year 2007-2008, the Respondents cannot refuse to refund the amount of Rs. 24,55,026/- recovered under Section 47 of the Bihar Value Added Tax Act, 2005.

v) To grant any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”

In response filed by the State, it stands admitted that the petitioner is entitled for refund of certain amounts.

Paragraph Nos. 4 and 5 of the affidavit reads as under:

“4. That after fresh submission of the application in the format A-VIII, the refund application of the petitioner will be processed as per provisions of BVAT Act 2005.

5. That the statements made in Para – 1 of the Writ Application requires no comments.”

Petitioner undertakes to complete the formalities i.e. file an application in Format-A/8 within a period of one week.

We direct the respondent to immediately process the same and have the amount refunded not later than two weeks from the date of receipt thereof.

WEB COPY

Petition is disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.08.2021
Transmission Date	

WEB COPY