IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9721 of 2021

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Lumbani Beverages Private Limited, a company incorporated under the provisions of the Companies Act and having its office 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, Commercial Taxes Department, Government of Bihar.
5. The Deputy Commissioner of Commercial Taxes, Hajipur Circle, Hajipur, Vaishali- 844101, Bihar.
6. The Assistant Commissioner of State Taxes, Hajipur, Vaishali- 844101, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
		Mr. Ranjan Prakash, Advocate
		Mr. Piyush Ranjan, Advocate
		Mr. Vijay Shankar Tiwari, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, S.C. 11

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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.)

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Date : 07-07-2021

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. 13, 59, 021 / - along with interest, which amount has been paid by the petitioner in excess to its actual VAT liability for the year 2016-2017.

ii) This Hon'ble Court may further adjudicate and hold that the pursuant to the order dated 29.01.2019 passed by Assistant Commissioner of State Tax, Hajipur rejecting the audit objection regarding short payment of VAT and dropping the proceeding against the petitioner with respect to year 2016 - 2017, the Respondents were legally obligated to refund the amount of Rs. 13,59,021/- 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. 13, 59, 021 / - along with interest with respect to the year 2016-2017 is completely unjust, illegal and de-hors the provisions of the Bihar Value Added Tax Act, 2005.

iv) This Hon'ble Court may further adjudicate and hold that the since there is no VAT liability of the petitioner for the year 2016 - 2017, the Respondents cannot refuse to refund the amount of Rs. 13,59,021 / - paid by the petitioner in excess to its actual tax liability.

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

Shri Suraj Samdarshi, learned counsel for the petitioner invites our attention to Form N-VIII (Annexure-2), which is reproduced hereinunder:-

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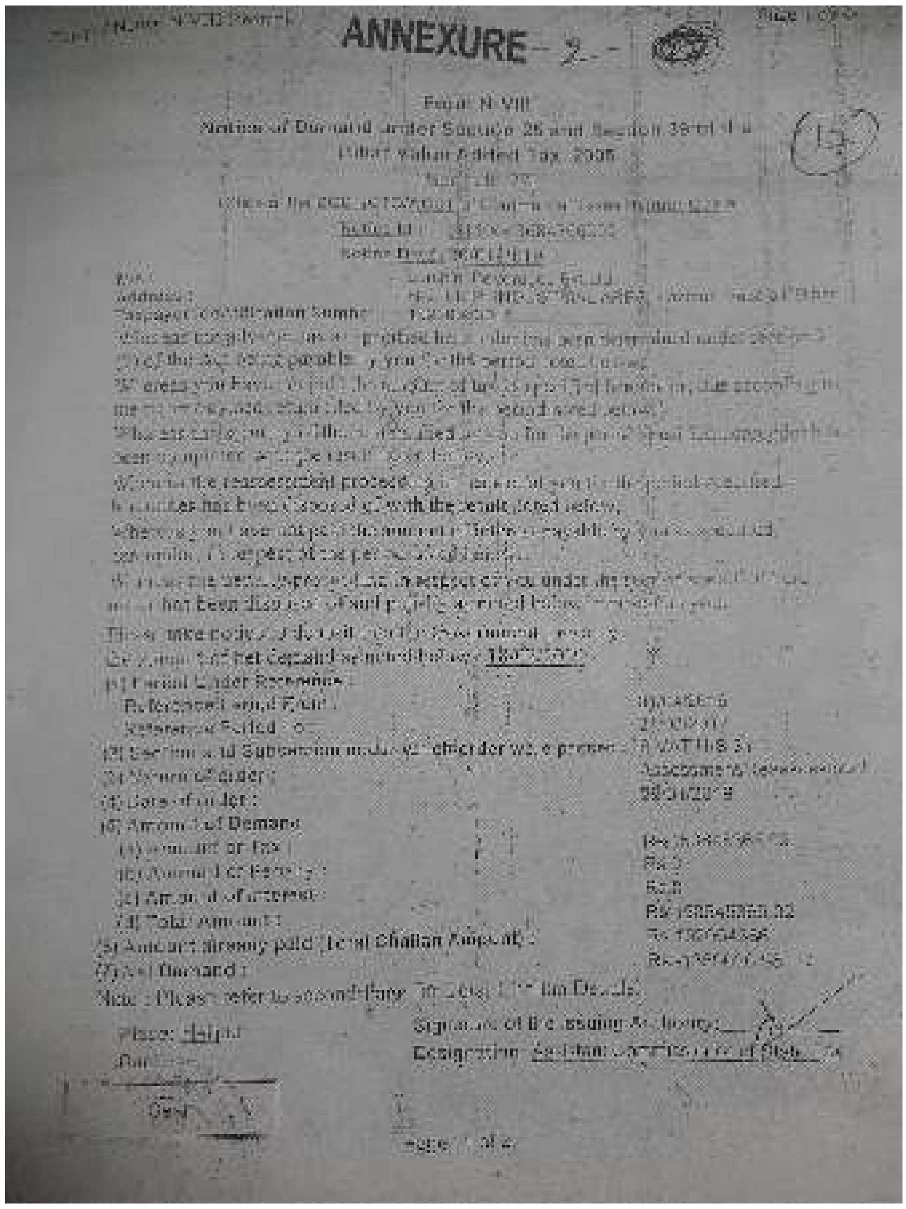

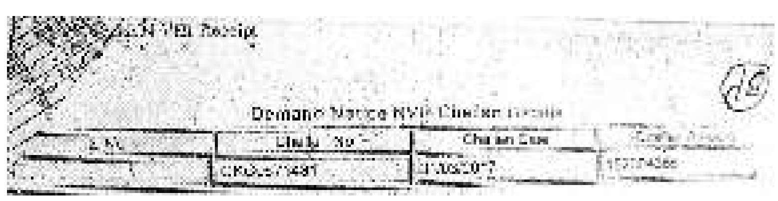

As per the averments made in the petition, petitioner is entitled to refund of an amount of Rs. 1359020.98. Significantly, if

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this amount was to be refunded to the petitioner under and in terms of the provisions of the Bihar Value Added Tax Act, 2005 within the stipulated period which has yet not been done, despite the orders issued on 29^{th} /30^{th} of January, 2019.

In this view of the matter, we dispose of the present petition directing the authority concerned to immediately process the application and take it to its logical end within a period of two months from today.

Liberty reserved to revive the petition if the need so arises.

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

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode. Also, learned counsel for the petitioner shall place a copy of the order on the record of the appropriate authority.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	16.07.2021
Transmission Date	

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