IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2781 of 2014

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M/s Okaya Power Ltd. Son Of Late E.P. Jaiswal Resident Of Ist Floor Thakur Market, Phulwari Sharif Road, Anishabad, P.S. Gardanibagh, Distt. Patna

... ... Petitioner/s

Versus

1. The State Of Bihar through the Principle Secretary-cum-Commissioner of Commercial Taxes, Vikash Bhawan, Bailey Road, Patna
2. The Joint Commissioner Of Commercial Taxes Appeal, Central Division, Patna
3. The Deputy Commissioner Of Commercial Taxes, Patliputra, Pant Bhawan, Bailey Road, Patna
4. The Assistant Commissioner Of Commercial Taxes, Patliputra Circle, Pant Bhawan, Bailey Road, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC 11

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-12-2021 Petitioner has prayed for the following relief(s):

> "I. For a direction to respondent concerned i.e. Appellate Authority for early disposal of the Appeal on merits, as the Assessing officer has committed gross illegality in passing the order by not considering the submission of the petitioner.
>
> II. For a direction to the respondent to refund back the amount which has been realised through the impugned action i.e. by exercising the power under section 47 of the Bihar VAT Act 2005 and realised an amount

of Rs. 15 Lakh for the period 2010-2011 in account of "Audit Objection/Report" including the penalty and interest.

III. For any other relief/reliefs for which petitioner is entitle on the fact and circumstances of the case."

Learned counsel for the petitioner states that petitioner has already preferred an appeal. Further, no notice for hearing of the appeal stands issued by the authority.

Shri Vikash Kumar, learned SC 11, while seriously disputing the said position, states that petitioner be directed to appear before the appellate authority, if the appeal is pending, and, if the petitioner were to fully cooperate, the appellate authority shall expeditiously decide the appeal, subject to the petitioner fully complying with the conditions of Section 72 of the Bihar V.A.T. Act, 2005.

Shri Vikash Kumar further states that if the petitioner were to fully complied with all the conditions of pre-deposit, the issue of limitation shall not come in the way of hearing of the appeal on merits.

Learned counsel for the petitioner states that the petitioner is ready and willing to abide by the order.

As such, petition is disposed of on the following mutually agreeable terms:

(a) Petitioner shall appear before the appellate authority on 03.01.2022 at 10:30 a.m.

(b) If the appeal is still pending, the appellate authority shall decide the same within a period of two months thereafter;

(c) The petitioner undertakes to comply with the condition of pre-deposit, as stipulated in Bihar V.A.T. Act, 2005.

(d) While considering of the appeal, opportunity of hearing shall be afforded to all concerned.

(e) Liberty reserved to place additional material on record, if so required and desired;

(f) Order passed assigning reasons shall be supplied to the parties;

(g) Liberty reserved to challenge the order, should the need so arise subsequently.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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