IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23499 of 2018

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M/s N C C Limited, a Company registered under the Companies Act, 1956, having its local office Phulwarishariff, Patna through the authorized signatory Sridhar Doki.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Finance Secretary, State of Bihar, Patna
3. The Commissioner of commercial Taxes.
4. The Joint Commissioner Admin of Commercial Taxes, Central Division, Patna.
5. The Deputy Commissioner of Commercial Taxes, Patliputra Circle, Patna
6. The Assistant Commissioner of Commercial Taxes, Patliputra Circle, Patna.
7. The Treasury Officer, Patna Sadar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Singh, 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 JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-01-2021

Petitioner has prayed for the following relief(s):-

"a) To issue a writ(s), direction(s) particularly a writ in the nature of mandamus to the respondents to refunds the excess amount of Rs. 6,87,67,686.00/ for the assessment year 2015-16 after adjusting Rs. 60,46,235/- u/s 68 of VAT Act along with statutory interest in pursuant of section 70 of the VAT Act, 2005.

b) To issue a further direction to the respondents to adjust Rs. 60,46,235/ which is due under the provision of Entry Tax Act out of total demand of out of Rs. 7,48,13,921/

c) or any other relief(s) as the petitioner is entitled for in the facts and circumstances of the case."

Having heard learned counsel for the parties as also perusing the affidavits, we are of the considered view that the issue of payment of interest, first needs to be determined by the Commissioner in terms of Section 70 of the Bihar Value Added Tax Act, 2005.

It is brought to our notice that a sum of Rs. 6,87,67,686.00/ was directed to be refunded vide order dated 11.04.2018 passed by the competent authority. The purported delay in refund of the amount is on account of non-acceptance of the refund voucher by the Government Treasury.

Well, we refrain from expressing any view thereupon save and except leaving it open to the competent authority to determine the issue of payment of interest beyond the statutory period stipulated in the very same provision.

In the aforesaid terms, we dispose of the present petition with a further direction to the Commissioner to positively take a decision within a period of two weeks from today. Reason shall be communicated to the petitioner.

Petitioner shall have liberty to take recourse to such remedies as are otherwise available including approaching this

Court on the same and subsequent cause of action.

Shri Vikash Kumar, learned counsel for the State, has read out the contents of the petition which would be filed in the Registry during the course of the day.

Record perused and returned.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.01.2021
Transmission Date	