IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1441 of 2018

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M/s Freyssinet Prestressed Concrete Co. Ltd. A Company registered under the Companies Act, 1956, having its local office at House No. II Pharaceutical Colony, Jaiprakash Nagar Patna through the authorized signatory Bibekananda Pain

... ... 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. 37,50,760/- for the assessment year 2012-13 u/s 68 of VAT Act along with statutory interest in pursuant of section 70 of the VAT Act, 2005.

b) 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. 17, 78, 002/- was directed to be refunded vide order dated 21st of March, 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.

At this juncture, learned counsel for the petitioner states that as on date petitioner is entitled to refund of additional amount of Rs.19,00,000/- (approximately). All these issues shall be considered by the Department/ competent authority.

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	