IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14551 of 2019

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M/s K.K. Builder Pvt. Ltd. through its director Vikash Singh, Age 42 Yrs S/o Lt. K. K. Singh,Kaushal Kishore Singh, local office at and P.o. and P.s.- Khutauna, Distt.- Madhubani.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Tax, New Secretariat, Patna.
2. The Add. Commissioner of State Tax Darbhanga Div., P.o. and P.s. and Distt.- Darbhanga.
3. The Joint Commissioner of State Tax Jhanjharpur Circle, P.s.- Jhanjharpur, Distt.- Madhubani.
4. The Deputy Commissioner of State Tax Then Assistant Commissioner of Commercial Tax, Jhanjharpur Circle, P.s.- Jhanjharpur, Distt.- Madhubani.
5. The Treasury Officer Jhanjharpur, P.s.- Jhanjharpur, Distt.- Madhubani.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Usha Kumari, Adv.
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)

Date : 10-03-2021

Heard the parties.

Petitioner has prayed for following relief(s):-

> "For refund the deemed assessed excess amount of Rs. 10,05,436/- U/s 68 of the VAT Act, for the assessment period of 2012-13, under the time barred proceeding alongwith statutory interest as per the Section 70 of the VAT Act, 2005 or any other relief(s) as the petitioner is entitled for the

> claimed amount of refund under the facts and circumstances of the case. The respondent ACST then ACCT, Jhanjharpur Circle could not pass the assessment order within time and now same has become time barred. The C-II and its confirmation alongwith treasury certificate are available with respondents. The C-II amount of Rs. 15,76,627.00 which amount has been deducted from the gross bill of the petitioner by Engineer In Charge and deposited in Govt. Treasury.”

Sri Vikash Kumar, S.C. 11 states that during pendency of the present petition, the appropriate authority has passed an order on merits by virtue of which the petitioner would not be entitled to payment of refund so claimed vide Form A-VIII.

It is further submitted that the petitioner had failed to submit his return in terms of the provisions of the Bihar Value Added Tax Act, 2005, prompting the officer to initiate the proceeding under Section 27 of the Act. This act is seriously disputed.

Learned counsel for the petitioner states that the statement appears to be actually incorrect, inasmuch as the petitioner had filed the return within the stipulated period as extended by the department.

Well, all these aspects we cannot adjudicate in the present proceeding.

As such, we dispose of the present petition reserving liberty to the petitioner to challenge the order passed by the appropriate authority in accordance with law. If the Appellate Authority finds that the order is totally without jurisdiction, petitioner will be at liberty to prefer a petition before this Court. However, such fact is left open to be adjudicated as and when any such petition is filed. Equally, it shall be open to the petitioner to take recourse to such other remedies as are otherwise available in law.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2021
Transmission Date	NA