IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12686 of 2021

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Broad Son Commodities Private Limited a Company incorporated under the provisions of the Companies Act, 1956 having its registered office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S. Koilwar, District Bhojpur (Ara), through its Director Ashok Kumar aged about 65 years (male), Son of Ram Chandra Saw, resident of Village/Mohalla - Pareo, P.S. Bihta, District - Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
2. The Principal Secretary cum Mines Commissioner, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
3. The Special Secretary Cum Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Assistant Director, District Mining Office, Patna.
5. The District Magistrate-cum-Collector, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate
		Mr. Avinash Shekhar, Advocate
		Mr. Piyush Ranjan, Advocate
For the Respondent/s	:	Mr. Naresh Dixit, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
(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.)

Date : 09-02-2022

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

"(i) For issuance of a writ, order or direction in the nature of certiorari for quashing order dated 18.02.2021, contained in memo no. 566 dated

23.02.2021, passed by the Respondent Mines Commissioner in Revision Case no. 02/2020, whereby and whereunder the well-founded revision application of the petitioner against letter no. 1827 dated 23.09.2020 issued by Respondent Collector, to the extent that it directs the petitioner to deposit Rs. 21,39,27,559/- as royalty for the extended period of 61 days i.e. from 01.11.2020 till 31.12.2020, has been rejected on wholly erroneous ground without considering the case of the petitioner.

(ii) For issuance of a writ, order or direction in the nature of certiorari for quashing of letter no. 1827 dated 23.09.2020 issued by the Respondent Collector to the extent that it directs the petitioner to deposit Rs. 21,39,27,559/- as royalty for the extended period of 61 days i.e. from 01.11.2020 till 31.12.2020, since the same is based upon erroneous calculation.

(iii) For issuance of a writ, order or direction in the nature of certiorari for quashing letter no. 1884 dated 23.09.2020 issued by the Respondent Assistant Director whereby and where under the representation dated 29.09.2020 of the petitioner has been rejected and petitioner has been directed to deposit Rs. 21,39,27,559/- as royalty for the extended period of 61 days i.e. from 01.11.2020 till 31.12.2020.

(iv) For issuance of a writ, order or direction in the nature of mandamus commanding the Respondent Collector, Patna to recalculate the royalty payable by the petitioner for the District of Patna for the extended period of 61 days i.e. from 01.11.2020 till 31.12.2020, considering the fact that the year 2020 was a leap year comprising of 366 days.

(v) For issuance of a writ, order or direction in the nature of mandamus commanding the Respondents to refund the excess royalty paid by the petitioner for the extended period of 61 days i.e. from 01.11.2020 till 31.12.2020.

(vi) To award any other relief or reliefs for which the Petitioner is found entitled in the facts and the circumstances of the case.

In view of the inherent contradictions in para-2 and para 5 of the impugned order dated 18.02.2021 passed by the Mines Commissioner in Revision Case no. 02/2020, we are inclined to quash and set aside the impugned order with a further direction to the authority to pass a fresh order, after affording adequate opportunity of hearing to all concerned.

The contradiction emanates as a result of the method adopted for determining the amount, due and payable, for the period for which the extension was granted. Unlike for the period 2019, where the calculation is on the basis of calendar year, the calculation for the subsequent period i.e. 2020, is on the basis of number of days for which the period stood extended. The fact that the year 2020 was a leap year stands noticed, but the petitioner's request for calculating the said year to be of 366 and not 365 days stands rejected.

It is in this view of the matter, we direct the authority to pass a fresh order also accounting for the correctness of the order dated 30.09.2020 passed by the Assistant Director, whereby the petitioner's request stood rejected, which also was subject matter of challenge before the revisional authority.

As such, for the aforesaid reasons, impugned order dated 18.02.2021 passed by the Mines Commissioner in Revision Case no. 02/2020, titled as **Broad Son Commodities Private Limited Vs. Collector, Patna & Ors.** is set aside with a direction to the revisional authority to pass a fresh order in accordance with law.

As such, instant petition stands disposed of.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	14.02.2022
Transmission Date	