IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14663 of 2021

M/S Arjun Engicon Pvt. Ltd. R/o J-117, P.C. Colony, Kankarbagh, Patna-2 through its director Sri Ravi Bhushan Kumar, S/o Sri Arjun Singh.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of state taxes, Bihar, new secretariat, Patna.
2. The Commissioner of Finance, Govt. of Bihar, Patna.
3. The Add. Commissioner of State Taxes (Admin.) Patna West Division.
4. The Joint Commissioner of State Taxes, Patna South Circle, Patna.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mrs. Usha Kumari, Advocate Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-07-2022

Heard learned counsel for the parties.

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

"1(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. 13,64,274.00 Only/ for the assessment year 2010-11, U/s 68 of the VAT Act, along with statutory interest in pursuant of section 70 of the VAT Act, 2005.

(b) To issue writ/direction to the respondents to consider the statutory obligation to refund the excess TDS amount with interest as prescribed under section

70 of the VAT Act, where as, it is specifically mentioned that where amount required to be mentioned that where amount required to be refunded by the prescribed authority to any person is not refunded to him within the sixty days of the amount having refundable, the prescribed authority shall pay such person simple interest at the rate of six percent.

(c) To issue further direction(s) to the respondent to refund the excess amount because the return filed by the petitioner for the assessment year 2010-11 has become time barred as the provision contained in section 25 and section 26 of the VAT of the VAT Act read with rule 21 of the VAT rule.

(d) Or any other relief(s) as the petitioner is entitled for in the facts and circumstance of the case."

Shri Mrigank Mauli, learned senior counsel appearing on behalf of the petitioner states that the authority passing the impugned order dated 04.02.2021 (Annexure-B Page 15), namely the Joint Commissioner of State Taxes, Patna South Circle, Patna, Respondent No. 4 had the jurisdiction to pass the order.

This is in response to our query posted vide order dated 08.03.2022.

However, at this stage, Shri Mrigank Mauli, learned senior counsel appearing on behalf of the petitioner states that the impugned order dated 04.02.2021 (Annexure-B Page 15), annexed along with the affidavit dated 12.09.2021 has been passed without affording adequate opportunity of hearing.

Passing of the impugned order entails civil consequences, inasmuch as petitioner's application for refund/claim stands rejected.

In this view of the matter, as mutually agreed upon, we quash and set aside the impugned order dated 04.02.2021 (Annexure-B Page 15), passed by the Joint Commissioner of State Taxes, Patna South Circle, Patna, Respondent No. 4 (Annexure-B Page 15, annexed along with the affidavit dated 12.09.2021) with the following directions:-

(a) Petitioner shall make himself available in the office of Joint Commissioner of State Taxes, Patna South Circle, Patna, Respondent No. 4 on 8th of August, 2022 at 10:30 A.M. on which date he shall place entire materials in support of his contentions and thereafter the officer shall pass an appropriate order in accordance with law within a period of three months thereafter;

(b) All issues of fact and law are left open;

(c) Liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(d) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	28.07.2022
Transmission Date	