IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14641 of 2022

M/S JCL Infra Pvt Ltd @ J. Sons Co. Ltd, Hotel India Dhawan Complex, S.N. Road, Muzaffarpur Through Vijay Rajvanshi (M) ages 74, S/o Late Sri Ram Kishan Das, Assistant General Manager Correspondence Address Industrial Estate, Delhi Road, Partapur, Merrut 250103

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes, Bihar Vikas Bhawan, Bailey Road, Patna.
2. The Joint Commissioner Commercial Taxes, Muzaffarpur Bihar.
3. The Deputy Commissioner Commercial Taxes, Muzaffarpur Bihar.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 14672 of 2022

M/s JCL Infra Pvt. Ltd. @ J.Sons Co. Ltd. Hotel India Dhawan Complex, S.N. Road, Muzaffarpur through Vijay Rajvanshi, S/o Late Sri Ram Krishn Das, Assistant General Manager Correspondence Address Industrial Estate, Delhi Road, Partapur, Merrut 250103 P.O. and P.S. Partapur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes, Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Joint Commissioner Commercial Taxes, Muzaffarpur Bihar.
3. The Deputy Commissioner Commercial Taxes, Muzaffarpur Bihar.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 17023 of 2022

M/S JCL Infra Pvt. Ltd. @ J. Sons Co. Ltd., Hotel India Dhawan Complex, S.N. Road, Muzaffarpur through Vijay Rajvanshi (M) age 57 years, s/o Late Sri Ram Kishan Das, Assistant Manager Correspondence Address Industrial Estate, Delhi Road, Partapur, Merrut 250103 P.O. and P.S. Partapur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes, Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Joint Commissioner Commercial Taxes, S.S. Road Muzaffarpur Bihar.
3. The Deputy Commissioner Commercial Taxes, S. S. Road Muzaffarpur Bihar.

... ... Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 14641 of 2022)
For the Petitioner/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)
(In Civil Writ Jurisdiction Case No. 14672 of 2022)
For the Petitioner/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)
(In Civil Writ Jurisdiction Case No. 17023 of 2022)
For the Petitioner/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

10 30-10-2023 The petitioner is concerned with a refund which is said to have been affirmed by the Department as early as in 2014. The petitioner’s reference is to Form N-VIII of the respective years issued by the Department on 24.06.2014, which are produced along with Annexure-1 at page No. 21 of the three writ petitions.

2. After the assessment orders for the assessment years 2009-10, 2010-11 and 2011-12, it was found that there was an excess payment of Rs. 34,18,187/-, Rs. 10,91,434 and Rs. 3,39,290/- respectively. Form N-VIII issued by the

Department for the respective years are produced at Annexure-1 in the respective writ petitions at page 21. The writ petitions for the three years in the sequence of the years are C.W.J.C. No.'s 14672/22, 17023/22 & 14641/22. The petitioner submits that despite an application made under Form A-VIII till date, the money has not been refunded. The petitioner relies on Annexure-3 produced along with all the writ petitions which are quite contrary from the ones produced by the department in its supplementary counter affidavit at Annexure-K.

3. Annexure-K in the different counter affidavits are the applications which have been filed by the petitioner before the department, which does not contain many of the details including the name and the details of the person who has made the application. We also find that From N-VIII produced along with the writ petition also has not been annexed along with Annexure-R and there is no date specified in the application. It is hence, the application was rejected for the technical defects noticed.

4. Even now, a proper application can be filed under Form A-VIII, which will be considered by the assessing officer. A consideration is necessary especially since the learned Government Advocate submits that there could be dues for the subsequent years which would have to be adjusted before a refund is granted.

5. In such circumstances, if proper applications under Form A-VIII is filed for the respective years within a period of one month from today, the department would consider the same by a reasoned order and grant refund, if any amounts are due to the petitioner, or clearly specify the appropriation made to the future dues. We make it clear that the interest would run only from the date on which a proper application for refund is made before the department.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

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