IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3170 of 2024

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Swati Sinha, D/o Prem Kumar Sinha, W/o Ashis Kumar Singh, R/o Mohalla-Khajurbanna, Ashok Raj Path, P.O- Mahendru, P.S.- Sultanganj, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes, Bihar, Patna.
2. The Additional Commissioner, Commercial Taxes, Bihar, Patna.
3. Joint Commissioner of Sales Tax, Commercial Taxes Patna City, West Circle, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate
For the Respondent/s : Mr. Standing Counsel 11

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

Date : 22-04-2024

The petitioner is concerned with the refund application filed at Annexure-P/3.

2. On facts suffice it to notice that for the year 2015-16, the petitioner was assessed under the Bihar Value Added Tax Act, 2005, by an order dated 11.02.2016, raising a demand of Rs.12,94,728/-. A notice of recovery was issued on 24.06.2016 and Rs.11,00,000/- was recovered.

3. The petitioner approached the revisional authority, who reversed the order of assessment and sent it back for reassessment. On reassessment by Annexure-P/2 order dated 06.02.2020, the demand was substantially reduced and it came to only Rs.1,68,388/-. The petitioner hence was entitled to refund of Rs.9,32,280/- for which an application was filed as seen at Annexure P/3.

4. A Counter affidavit has been filed, which clearly states that there is no refund application filed before the Assessing Officer, the Additional Commissioner of State Taxes. It is also stated in the counter affidavit that Annexure-P/3 filed before the Joint Commissioner cannot be considered, since the refund has to be considered by the Additional Commissioner of State Taxes, who is the authority under Rule 43 of the Value Added Tax Rules, 2005.

5. We see from Annexure-P/3 that the application for refund is filed before the office of the Joint Commissioner of State Taxes.

6. In the above circumstances, we direct the petitioner to file a proper application before the Additional Commissioner, as provided under the Rule 43 of the Value Added Tax Rules, 2005, which shall be considered and the

refund made expeditiously.

7. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.04.2024
Transmission Date	NA