IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2541 of 2019

M/s. ACC Limited a company incorporated under the provisions of the Indian Companies Act, 1913 having at Samridhi Complex, S.P Verma Road, P.S. Gandhi Maidan, District Patna Through its Deputy General manager (Finance) Sri Jitendra Sharma, Male age about 40 Years Son of Sri Mohan lal Sharma, Resident of R.P.S More, P.O and P.S Danapur and District Patna

... ... Petitioner/s

Versus

1. The State of Bihar Though the Commissioner State Taxes -cum -Principal Secretary, Commercial Taxes Department, Bihar having its Office at Vikash Bhawan, Bailey Road Patna
2. The Assistant Commissioner State Taxes, Special Circle Patna, Special Circle Patna

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Agrawal, Advocate
		Mr. Sanjeev Kumar, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-12-2024

The petitioner in the above case is concerned with the demand for the Assessment Year 2015-16 under the Bihar Value Added Tax Act, 2005 (hereinafter referred to as the 'VAT Act') simultaneous to the assessment under the VAT Act. The petitioner was also proceeded under the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (hereinafter referred to as the 'Entry Tax Act').

2. The petitioner had a contention that there was a

refund of Rs. 15,04,59,365/- as arising from the Assessment Year 2010-11.

3. The petitioner had filed the writ petition against the assessment made on the Entry Tax enactment by **CWJC No. 2540 of 2019 (M/s. ACC Limited vs. The State of Bihar & Anr.)** which was disposed of on 18.11.2019 by another Division Bench, clearly directing the refund to be effected and the entry tax assessment to be completed, giving set off to the refund amounts. The processing of refund for the year 2010 is revealed from Annexure-1, produced in the writ petition. The assessment order of the year 2015-16 of the Entry Tax Act has been completed by order dated 19.8.2020.

4. In the present writ petition, the order of demand is under Sections 25 and 39(2) of the VAT Act. In the scenario where the entry tax assessment has been completed, the assessment under the VAT Act for the relevant assessment year i.e., 2015-16 has to be now taken up and disposed of by the Assessing Officer, also giving set off to the entry tax paid by the petitioner, which is revealed from the order of assessment under the Entry Tax Act.

5. We, hence, set aside Annexure-4 and Annexure 6 passed under Sections 25 and 39(2) of the VAT Act only to

facilitate assessment under the VAT Act.

6. The petitioner shall appear before the Assessing Officer on 20.12.2024.

7. The Assessing Officer shall issue notice to the petitioner and give an opportunity of hearing before concluding the proceedings.

8. The proceedings shall be concluded, at any rate, within a period of six months from the date of this judgment. The assessee shall also cooperate in finalising the said assessment.

9. The writ petition stands disposed of with the above directions.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	09.12.2024
Transmission Date	N/A