IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14452 of 2023

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Baba Bateshwar Construction Pvt. Ltd. Having its registered office at Topra Tola, P.O. Sirmatpur, P.S. Pirpainti, District Bhagalpur, Bihar through its Managing Director, Sushil Kumar, aged about 45 years, Male, son of Late Satya Narayan Singh. resident of village Topra Tola, P.O. Sirmatpur, P.S. Pirpainti, District Bhagalpur, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The State Commissioner of Taxes, Government of Bihar, Patna.
4. The Additional Commissioner (Appeal), State Tax, Bhagalpur Division, Bhagalpur, Bihar.
5. The Assistant Commissioner of State Tax, Bhgalpur, District Bhagalpur, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prabhat Ranjan, Advocate Mr. Chandan Kumar, Advocate
For the Respondent/s	:	Mr.Vikash Kumar, SC 11

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

Date : 29-02-2024

Petitioner is concerned with the refund for the assessment year 2020-21. The petitioner's assessment for the first quarter from 01.04.2020 to 30.06.2020 was completed demanding an amount of Rs. 21,22,916/-, including tax, interest and penalty. The assessment order was dated 03.02.2021.

2. The petitioner preferred a statutory appeal,

which got disposed of on 04.03.2023. There was some modifications made by the Appellate Authority. Since, the Tribunal was not constituted and the second appeal could not be filed, the petitioner approached this Court, which disposed of the writ petition by Annexure-3 on 09.05.2023, directing payment of 20% of the amount. But before the said order was passed, there was a recovery made of Rs. 15,88,758/- from the accounts of the petitioner, which was the demand modified as per the first appellate order dated 04.03.2023. The petitioner had also deposited 10% amount at the time of filing of the first appeal, which came to Rs. 1,77,132/-. Hence, the total deposit for the first quarter of the year 2020-2021 came to Rs. 17,65,890/-. Subsequently, the petitioner was assessed for the entire financial year 2020-21 on 14.03.2023 wherein the total demand was reduced to Rs. 5,67,266/-.

3. The petitioner claims that in that circumstance, the amount claimed should be set off from the amount already deposited and the balance refunded.

4. The petitioner would be entitled to make an application under Section 54 of the BGST Act, especially since the two year period, provided under Section 54, is not yet over. If such an application is made, the same shall be considered

expeditiously.

5. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	02.03.2024
Transmission Date	