(2001) 02 PAT CK 0019

In the Patna High Court

Case No : C.W.J.C. No. 2711 of 2001

Ashok Kumar Choudhary — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 27-02-2001

Acts Referred:
Bihar Finance Act, 1985 — Section 25A

Citation : (2001) 3 PLJR 23

Hon'ble Judges : Ravi S. Dhavan, C.J;Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Surendra Kumar, for the Appellant; A.N. Singh, for State and K.B. Nath, for Corporation, for the Respondent

Judgement

1. The Government order dated 22 February, 2000 clearly intimated that deductions in pursuance of Section 25A of the Bihar Finance Act, 1985 were not to be made. Despite that the Respondents 2 and 3 i.e., Bihar Police Building Construction Corporation continued to make deductions. The deductions clearly were made rightly or wrongly in pursuance of Section 25A itself. The State had already conveyed the decision that these deductions were not to be made. The amount was not deposited with the Sales Tax Officer concerned either.

2. In any case, Bihar Police Building Construction Corporation should have deposited this amount with the Sales Tax-Officer concerned. This was not done. The amount has to be deposited or refunded. Since the State has already taken a decision that the deduction is not to be made the amount has to be refunded. The fact that the amount was deducted despite the government order, Bihar Police Building Construction Corporation is liable to refund and this it will do with 12 per cent interest reckoned from the date of the order, i.e. 22 February, 2000 as of date when the bank draft will be made in the name of the Petitioner who has already applied for refund by his application on 25 November, 2000, Annexure 3 to the writ petition.

3. Counsel appearing on behalf of the Corporation aforesaid stated that the

matter be posted for 8 March, 2001 by which date he will report the matter on refund.

4. List on 8 March, 2001.

