(2022) 03 PAT CK 0029

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3764 Of 2022

M/S Dalmia Cement (Bharat) Ltd. APPELLANT

Vs

State Of Bihar RESPONDENT

Date of Decision : 09-03-2022

Acts Referred:

Citation : (2022) 03 PAT CK 0029

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : S. D. Sanjay, Mohit Agarwal, Akshat Agarwal, Anand Kumar, Sushila Agarwal, Sushmita, Vikash Kumar?

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

It is submitted by learned senior counsel for the petitioner that Annexure-11 is the assessment order dated 31.12.2021 for the financial year 2016-17, passed by the respondent No.4, namely, the Assistant Commissioner, State Tax, Special Circle, Patna, in which amount of Rs. 2,65,20,684/-has been calculated as interest for delayed payment.

It is further submitted that in the previous financial year, there were excess amount deposited by the petitioner, which were lying in the coffer of the State and in the assessment year 2016-17, those excess amount had been adjusted against the demand notice.

Petitioner is aggrieved with the calculation of interest amount of Rs. 2,65,20,684/-, as certain amount were lying with the Department, as an excess tax paid by the petitioner. As such, there was no occasion for imposing any interest upon the said amount.

Learned senior counsel for the petitioner further submits that he has already filed a representation dated 29.12.2021, as contained in Annexure-10, before the Assessing Officer, Patna Special Circle, Patna, to the effect that since the petitioner has already deposited excess amount, which has been adjusted against the demand notice, as such, he is not liable to pay interest on the demand notice. However, although the Assessing Officer has taken note of Annexure-10 filed by the petitioner, but no discussion or finding has been recorded by the Assessing Officer with respect to Annexure-10.

In such view of the matter, the order dated 31.12.2021, passed by the respondent No.4, namely, the Assistant Commissioner, State Tax, Special Circle, Patna, by which liability has been shown to the petitioner to pay interest to the tune of Rs. 2,65,20,684/-, is set aside.

The writ petition is disposed of with liberty to the petitioner to appear before the Assessing Officer, Patna Special Circle, Patna, on 14.03.2022 at 10.30 A.M., along with a copy of this order. The Assessing Officer shall hear the petitioner and pass a fresh order with regard to the liability of payment of interest, at the earliest.

Interlocutory Application(s), if any, also stands disposed of.

