(2013) 10 PAT CK 0032

In the Patna High Court

Case No : CWJC No. 18806 of 2013

M/s. Janki Traders APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 08-10-2013

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2013) 4 PLJR 839

Hon'ble Judges : Rekha Manharlal Doshit, C.J;Ashwani Kumar Singh, J

Bench : Division Bench

Advocate : Ramesh Kumar Agrawal, Anupa Nand Jha and Ravi Bharuka, for the Appellant; Vikash Kumar, for the Respondent

Judgement

Rekha Manharlal Doshit, C.J.—This Petition under Article 226 of the Constitution is filed by M/s. Janki Traders, a dealer within the meaning of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as ''the 2005 Act''). The petitioner is constrained to approach this Court under Article 226 of the Constitution to recover a sum of 10,99,999.00, the amount of VAT paid in excess for the financial year 2006-07.

2. It is not in dispute that the Assistant Commissioner of Commercial Taxes has, as early as on 26th June, 2012, made order that a sum of Rs. 12,19,865.00 was paid in excess of the VAT dues. Since then the petitioner has been moving every authority for refund of the above referred sum of Rs. 10,99,999.00 after adjustment of certain other dues.

3. On perusal of the record it appears that Refund Voucher in the sum of Rs. 10,99,999.00 was also drawn as early as on 13th February, 2013 by the Deputy Commissioner of Commercial Taxes. However, under order dated 13th May, 2013, the Deputy Commissioner of Commercial Taxes has made recommendation to obtain permission from the Commissioner of Commercial Taxes, Bihar, Patna for review of the aforesaid order dated 26th June, 2012.

4. No justification is made out by the respondent authorities in respect of the said order dated 13th May, 2013.

5. It is apparent that for some undisclosed reasons, the respondent authorities are avoiding to make payment of refund to the petitioner.

6. In the aforesaid circumstances, the Petition is allowed. The respondents are directed to refund the aforesaid sum of Rs. 10,99,999.00 to the writ petitioner within 15 days from today. In the event, the respondents fail to refund the aforesaid sum of Rs. 10,99,999.00 within 15 days, as directed, the petitioner will be entitled to recover the said amount with interest @ 10% per annum. The interest will be computed for the period from 1st February, 2013 till the date of payment. The Registry will send copy of this order to the respondent Nos. 2, 3 and 4 forthwith.