(2003) 04 JH CK 0061

In the Jharkhand High Court

Case No : Writ Petition (T) No. 27 of 2002

Rajendra Prasad Singh	APPELLANT
Vs	
State of Jharkhand and Others	RESPONDENT

Date of Decision : 01-04-2003

Acts Referred:
Bihar Finance Act, 1981 — Section 25A

Citation : (2003) 3 JCR 351

Hon'ble Judges : P.K. Balasubramanyan, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : V.N. Jha and Sudhir Kumar, for the Appellant; P. Modi, GP I, for the Respondent

Judgement

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The case of the petitioner is that inspite of the fact that Section 25-A of the Bihar Finance Act has been declared ultra vires by the Patna High Court, the respondents are continuing to deduct advance tax from the bills of petitioner u/s 25-A of the Act.

3. Counsel for the respondents submitted that after the Section 25-A of the Act has been declared as ultra vires by Patna High Court, deducation on the basis of that provision was not permissible. But he submitted that the claim of the petitioner can be considered by the respondents and the amount, if any, deducted from the bill of the petitioner can be refunded only after the petitioner files a return and the assessment under the Act is completed.

4. We think that in the circumstances of the present case, the only direction that needs to be given is to direct the petitioner to make a proper application in terms of the Act before the respondents for refund of the amount allegedly deducted from his bill as advance tax u/s 25-A of the Act and direct the respondents to consider such application and pass a final orders thereon in accordance with law.

We clarify that the Authority concerned will be entitled to take all relevant aspects into consideration while passing an order on, that application.

5. We, therefore, direct that petitioner to -make a proper application in terms of the Act before the respondents. The respondents are directed to take a decision on the said application in accordance with law. If any amount is found refundable, the same will be refunded within a period of three months from the date of disposal of such representation.

6. With the above direction this writ petition is disposed of.

