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**(2021) 01 PAT CK 0207**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 19668 Of 2018

U B V Infrastructures Ltd. APPELLANT

Vs

State Of Bihar And Ors RESPONDENT

**Date of Decision :** 22-01-2021

**Acts Referred:**

**Citation :** (2021) 01 PAT CK 0207

**Hon'ble Judges :** Sanjay Karol, CJ;Prabhat Kumar Singh, J

**Bench :** Division Bench

**Advocate :** Ramesh Kumar Agrawal, Vikash Kumar

**Final Decision :** Disposed Of

## Judgement

Petitioner has prayed for the following relief(s):

â??(i) For issuance of appropriate writ(s), order(s) or direction(s) directing the respondent No. 3 to pay the balance GST (Goods and Service Tax) @

7% (3.5% C.G.S.T. and 3.5% B.G.S.T.) on the R.A. bills already issued and to be issued in future by the petitioner on and from 01.07.2017 that is

after coming into the force of the Central goods and services Tax Act, 2017 (hereinafter referred to as â??the CGST Actâ?? only) and the Bihar

goods and service Tax Act, 2017 (hereinafter referred to as â??the BGST Actâ?? only) as per the agreement dated 23.06.2016 executed between

the petitioner and the respondent No. 3 Executive Engineer.

(ii) To restrain particularly respondent N. 5 from making any demand of the balance 7% GST in question or from taking any action against the

petitioner in this regard.

(iii) For any other relief[s] for which the petitioner may be found entitled to in the facts and circumstances of the present case.â??

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It is not disputed that so far as compliance of the provisions of Central Goods and Services Tax Act, 2017 (hereinafter referred to as the â??Actâ??)

is concerned, the liability to pay tax is upon the petitioner, though this being a different matter that under agreement dated 23rd June, 2016 entered

inter se between the petitioner and an instrumentality of the State, as contained in Annexure 2 series, the petitioner is aggrieved for the non-payment

of component of tax by such instrumentality.

Mr. Ramesh Kumar Agrawal, learned counsel for the petitioner, expresses his apprehension of non-compliance of the statutory provision by the

authorities in expediting the refund of the amount, duly payable to the petitioner, towards the component of tax, which may be deposited in relation to

the transaction as per agreement entered into between the parties.

There is nothing on record to suggest any inaction on the part of the authorities in processing the application for refund.

Be that as it may, we dispose of the present writ petition, inter alia with the following directions-

(a) The petitioner shall initiate proceeding before the concerned authority under the Act, seeking refund of the amount, as per the agreement dated

23rd June, 2016 within two weeks from today.

(b) Such application filed by the petitioner shall positively be processed and decided within a period of four weeks thereafter or the statutory period

prescribed under the Act.

(c) In the event of failure, the officials found negligent in taking appropriate action, shall be held personally responsible.

(d) Liberty is reserved to the petitioner to file a petition on the same and substantial inaction of the concerned authorities in processing/deciding the

refund application.

(e) Additionally, if any amount is deposited by the petitioner, the same shall also be processed along with the refund application.

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

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