Anand Kumar Modi Vs. Central Coalfields Limited and ors.

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Court : Patna

Decided On : Aug-16-2000

Judge : N. Pandey and A.K. Prasad, JJ.

Appeal No. : C.W.J.C. No. 728 of 2000 (R)

Appellant : Anand Kumar Modi

Respondent : Central Coalfields Limited and ors.

Judgement :

N. Pandey and A.K. Prasad, JJ.

1. This Writ petition has been filed for a direction to the respondent Nos. 1 to 6 to refund a sum of Rs. 1,42,960/- with interest from the date of realisation of the amount till the data of refund.

2. It is stated that this Court by a judgment in the case of Chandrama Coal Products and Ors. v. State of Bihar and Ors. 1993 (3) PLJR 706 and analogous cases has already declared the Notification bearing S.O. No. 3 dated 3.1.1998 as illegal and arbitrary. By the above Notification, rate of Sales tax was fixed at the rate of 8% on the sale and purchase of 'Slurry' and 'Sludge'. It was held that on such commodity, sales tax cannot be realised in excess of 4%. The claim is since admittedly the petitioner had deposited excess amount in terms of the aforesaid Notification, therefore, now entitled for refund.

3. From the materials on record as well as the counter-affidavits filed on behalf of the Central Coalfields Limited-respondent Nos. 1 to 5 and the respondent No. 6-State of Bihar through Commissioner of Commercial Taxes, Bihar, Patna, there appears to be no dispute that the amount of sales tax was realised at the rate of 8% per annum + 1% additional tax, whereas as per the decision of this Court, realisation of sales tax can only be made up to the extent of 4% per annum.

4. On behalf of the State Government, it was stated that such amount can only be refunded to the authority of the Central Coalfields Limited, because it was deposited through them. There is no denial either on behalf of the State Government or on behalf of the Central Coalfields Limited that the amount in question was deposited by the petitioner with the Central Coalfields Limited. Learned Counsel appearing for the Central Coalfields Limited also accepted that the moment such amount is received back from the State Government, steps will be taken to refund the same to the petitioner.

5. We, therefore, having regard to the stand taken by the parties aforesaid direct the respondent No. 6 (State of Bihar through Commissioner of Commercial Taxes, Patna) to refund the excess amount so collected to the Central Coalfields Limited within a period of four weeks from the date of receipt of a copy of this order. We also direct the respondent No. 3 (the Director, Finance, Central Coalfields Limited, Ranchi) and respondent No. 4 (General Manager (Sales), Sales & Marketing Department, Central Coalfields Limited, Ranchi) to refund such amount so returned by the State Government to the Writ petitioner within a period of three weeks from the date of its receipt from the State Government.

6. With the aforesaid directions, the Writ petition is disposed of.

7. Let a copy of this order be made available to learned Government Advocate.