

**(2020) 12 PAT CK 0103**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 18239 Of 2019

Jai Mata Dee Construction A  
Partnership

APPELLANT

Vs

Commissioner Of State Tax And  
Ors

RESPONDENT

**Date of Decision:** Dec. 10, 2020

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

**Bench:** Division Bench

**Advocate:** D.V.Pathy, Vikash Kumar

**Final Decision:** Disposed Of

### **Judgement**

Petitioner has prayed for the following relief(s):-

â€œi) the respondent nos. 5 to 11 be directed to remit the amount of tax deducted at source from the bills of the petitioner under the repealed Bihar

Value Added Tax Act, 2005 (hereinafter call the VAT Act) after the coming into force of Bihar Goods and Service Tax Act, 2007 (hereinafter called

the Act) directly to the account of the respondent no. 4 for adjustment against the tax liability under the said Act.

ii) Alternatively, the respondent nos. 5 to 11 be directed to refund the amount of tax deducted source from the bills of the petitioner after the coming into force of the Act with appropriate interest thereon.

Iii) the respondent no. 4 be directed to restore the registration cancelled under the Act for failure to pay the amount of tax under the Act for the period

01.07.2017 to 31.03.2018.

iv) for granting any other relief(s) to which the petitioner is otherwise found entitled to.â€

In our considered view, the issue can best be resolved with the petitioner appearing before the respondent no. 2, who shall, after ascertaining the

information from all departments/sources, ensure passing of appropriate directions for adjustment of the tax deducted under various Statutes and

refund of the amount, due and admissible, in accordance with law. Such deduction, adjustment and refund has to be in terms of the Bihar Value

Added Tax Act/Bihar Goods and Service Tax Act.

We direct the petitioner to appear before the respondent no. 2, namely, Road Construction Department through its Secretary having its office at

Vishweshwaraiya Bhawan, Bailey Road, Patna on 28th December, 2020 at 10:00 A.M.

Necessary order shall be passed on or before 31st of March, 2021 and the amount of refund, if any, found due and admissible, after making necessary adjustment, shall be disbursed to the petitioner on or before 30th April, 2021.

We are constrained to pass such direction, considering the fact that the matter pertains to the period 2017-18 and the issue ought to have been decided by the authority at the earliest.

Shri D.V.Pathy states that if the amount of refund, as may be found admissible, is disbursed to the petitioner on or before 30th of April, 2021, he shall give up the claim for interest thereupon.

Statement accepted and taken on record.

Petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.