IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4260 of 2015

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1. Cargil India Pvt. Limited , a Company incorporated under the Companies Act,1956, having its registered office at 14th Floor, Building no. 9A , DLF, Cyber City , Phase-III, Gurgaon P.O.+ P.S. Gurgao, Haryana -122002 and Branch Office at N.H. 30 New Bye-Pass Road , Karmali Chak , P.O.+ P.S. -Patna City , District- Patna-800009 through its authorized signatory, Prasant Mohanty, son of Late Surendra Nath Mohanty resident of 217/16, Shivaji Nagar, P.O.+ P.S. Gurgaon , Haryana-122001.

.... Petitioner/s

Versus

1. The State of Bihar through the Commercial Taxes , Bihar, Patna having its office at Vikas Bhawan , Bailey Road, Patna.
2. Commercial Taxes Officer, Patliputra Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.4227 of 2015

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1. Cargil India Pvt. Limited , a Company incorporated under the Comanies Act,1956, having its registered office at 14th Floor , Building no. 9A , DLF Cyber City, Phase -III , Gurgaon P.O. + P.S. Gurgaon, Haryana -122002 and Branch Office at N.H. 30 New Bye-Pass Road , Karmali Chak, P.O. + P.S. - Patna City , District- Patna-800009 through its authorized signatory, Prasant Mohanty son of Late Surendra Nath Mohanty resident of 217/16, Shivaji Nagar, P.O.+P.S. Gurgaon, Haryana-122001.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes , Bihar , Patna having its office at Vikas Bhawan , Bailey Road, Patna.
2. Commercial Taxes Officer, Patliputra Circle, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.4260 of 2015)

For the Petitioner/s : Mr. D.V.Pathy
Mrs, Manjhu Jha
Mr. P.K. Mishra

For the Respondent/s : Mr Sandeep Kumar,G.A.8

(In CWJC No.4227 of 2015)

For the Petitioner/s : Mr. D.V.Pathy
Mrs, Manjhu Jha
Mr. P.K. Mishra

For the Respondent/s : Mr. Sandeep Kumar, G.A.8

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

4 07-04-2015 Heard learned counsel for the petitioner and learned Government Advocate No.8 in both the writ applications.

Learned Government Advocate No.8, instead of answering the jurisdictional issue as raised by the petitioner and directed by the last order, submits that the impugned orders may be set aside and the matters remanded to the Assessing Officer to enable the petitioner to produce the necessary forms and evidences before him.

Learned counsel for the petitioner submits that he may not be compelled by the Assessing Officer to produce forms with regard to corn & wheat which are tax exempt items in Schedule-I of the BiharValue Added Tax Act, 2005. So far as taxable item is concerned, it is stated that the petitioner has already submitted forms for practically the entire amount except for certain small amount, for which steps are being taken to obtain the forms and in case he fails to obtain the same, he may be permitted to produce necessary documents with regard to the nature of the transactions.

In support of his aforesaid stand, learned counsel for the petitioner relies upon a decision of the Supreme Court in the case of Ambica Steels Ltd. vs. The State of U.P. and others: (2009) 14 SCC 309.

In view of the aforesaid stand of learned Government Advocate No.8, both the writ applications are allowed. The impugned orders dated 11.12.2014 and the consequential notice of demand under Section 47 of the Act are quashed and the matters are remanded to the Assessing Officer, Patliputra Circle to reconsider the same giving a reasonable opportunity to the petitioner to produce necessary forms and in the absence of the same, the necessary evidence with regard to the nature of the transactions.

Let the petitioner appear before the Assessing Officer on 26th May, 2015 along with forms/evidences who shall, thereafter, consider and dispose of the matter in accordance with law.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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