IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3871 of 2015

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Nestle India Limited through its authorized representative Mr. Abhijit Kole, son of Late Gopal Chandra Kole, Manager Administration, Kolkata Branch, resident of Bhudeb Mukherjee Road, Barabazar, Police Station-Chandannagore, District-Hooghly.

.... Petitioner/s

Versus

1. The State of Bihar throughthe Principal Secretary-cum-Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner, Commercial Taxes, Buxar Circle, Buxar
3. The Commercial Tax Officer, Buxar Circle, Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jayanta Ray Chaudhury
Mr. Binay Kumar

For the Respondent/s : Mr. Raj Nandan Prasad- S.C.9
Mr. Gopal Krishan
Mr. Rakesh Prabhat, A.C. to S.C.9.

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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)

2 18-03-2015 Heard learned counsel for the petitioner and learned counsel for the State.

Learned counsel for the petitioner submits that the impugned order dated 7.1.2015 has been passed by the Commercial Taxes Officer, Buxar Circle, Buxar without considering the fact that there was only some typographical error in the e-suvidha form with regard to the value of the goods in which last digit was missing, as otherwise the stock transfer advice was accompanying the documents in the truck, which gave a clear description of the goods being carried as also the fact that it was not a sale transaction but an inter-State stock transfer of the company itself and thus the transaction was not liable for any tax under the provisions of the Bihar Value Added Tax Act, 2005 or the Central Sales Tax Act.

On a consideration of the facts and circumstances of the case, the writ application is disposed of with a direction that if the petitioner deposits the bank guarantee for the amount of penalty imposed, namely, Rs. 9,99,936/-, then the truck along with the goods shall be released forthwith by the respondents.

So far as the merit of the matter is concerned, we have not applied our mind to the same and in case the petitioner files an appeal within a period of two weeks from today before the competent authority against the order dated 7.1.2015 along with an application for condonation of delay then the same shall be considered by the Appellate Authority keeping in view the fact that the petitioner has been pursing its remedy before this Court.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

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