IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5082 of 2015

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Vodafone Essar Spacetel Ltd. (now known as Vodafone Specetel Limited), a Company invorporated under the Companies Act having its office at 48, Okhla Industrial Area, Phase-II P.O. + P.S. Okhla, New Delhi-110020 and its branch at Block A, Sai Corporate Park, Rukunpura, P.O. Rupaspur, P.S. Rupaspur, District Patna through its Manager (Legal), Rajkumar Paul, S/o Late Manik Chand Paul, Resident of Block A, Sai Corporate park, Rukunpura, P.O. B.V. College, P.S. Rupaspur, District Patna. .... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. D.V.Pathy Mr. Jayanta Ray Chaudhary Mrs. Manju Jha
For the State	:	Mr. Purnemdi Singh (GP-27) Mr. Rakesh Kr. Sharma, AC to GA-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)

2 02-04-2015 Heard learned counsel for the petitioner and learned for the State.

The petitioner seeks quashing of the order dated 27.12.2014 passed by the Commercial Taxes Officer, Patliputra Circle, Patna for the period 2013-14.

Learned counsel for the petitioner submits that the present matter is also among the legion of cases where only on account of non-extension of time to produce the Forms “C” & “F” before the Assessing officer since the authorities of the State of Jharkhand had not issued the forms for the remaining transactions as the petitioner has been able to produce such forms with respect to transaction worth Rs. 21,31,45,000 out of Rs. 24.55 crores and given the extension, the petitioner would have been able to produce the remaining forms. Alternatively it is submitted by learned counsel for the petitioner that even if the said forms were not available, the petitioner would have satisfied the Assessing Officer regarding the nature of transactions but no such opportunity was provided to the petitioner and tax and interest has been levied on a transaction on which it ought not to have been levied.

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 Limited Vs. The State of Uttar Pradesh & Ors: (2009) 14 SCC 309.

It is also submitted by learned counsel for the petitioner that he has been instructed to say that the petitioner would be able to get remaining declaration forms in about six weeks from the authorities of the Sales Tax Department of the State of Jharkhand.

On a consideration of the facts and circumstances of the case, the writ application is disposed of. The order dated 27.12.2014 passed by the Commercial Taxes Officer, Patliputra Circle, Patna is quashed and the matter is remanded to him to pass a fresh order in accordance with law after giving opportunity to the petitioner to produce the remaining Forms “C” and “F” and alternatively on failure to produce the said forms satisfy him as to the nature of transactions as laid down in the aforesaid decision and other decisions.

For the aforesaid purposes, the petitioner shall present himself before the Assessing Officer on 18th May, 2015 at 11.30 A.M. along with the Forms available with him or the documents as may be required to substantiate the transactions and the Assessing Officer shall thereafter proceed to decide the matter afresh in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/- **(Anjana Mishra, J)**

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