IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5045 of 2015

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M/s Pidilite Industries Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registeredoffice at Regent Chambers, 7th Fllor, 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai-21, having its branch office at Didarganj, Near Rajdhani Petrol Pump, P.O. Madhav Mills, P.S. Didarganj, District Patna-800008, through its Authorized Representative, Sunil Poddar, son of Late S.L. Poddar, resident of Exhibition Road, Ashoka Place, Block-A, 7th Floor, P.O. G.P.O., P.S. Gandhi Maidan, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Joint Commissioner of Commercial Taxes, Central Division, Patna.
3. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
4. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.5046 of 2015

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M/s Pidilite Industries Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its registeredoffice at Regent Chambers, 7th Fllor, 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai-21, having its branch office at Didarganj, Near Rajdhani Petrol Pump, P.O. Madhav Mills, P.S. Didarganj, District Patna-800008, through its Authorized Representative, Sunil Poddar, son of Late S.L. Poddar, resident of Exhibition Road, Ashoka Place, Block-A, 7th Floor, P.O. G.P.O., P.S. Gandhi Maidan, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Joint Commissioner of Commercial Taxes, Central Division, Patna.
3. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
4. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.5045 of 2015)

For the Petitioner/s : Mr. Suraj Samdarshi

For the Respondent/s : Mr. Vikas Kumar, P.A.A.G.

(In CWJC No.5046 of 2015)

For the Petitioner/s : Mr. Suraj Samdarshi

For the Respondent/s : Mr. Vikas Kumar P.A.A.G.)

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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 01-04-2015

Heard learned counsel for the petitioner in both the writ petitions and learned counsel for the State.

This is the second round of litigation, as earlier the petitioner had challenged the notice dated 10.3.2015 issued under Section 47 of the Bihar Value Added Tax Act, 2005 by filing C.W.J.C. No.3887 of 2015, which matter had been disposed of by the order dated 17.3.2015 with liberty to the petitioner to take recourse to the statutory remedies available to it and until the disposal of the stay application, coercive steps were directed not to be taken against the petitioner. Thereafter, the petitioner preferred appeals before the Appellate Authority and prayed for stay, which were disposed of by the orders dated 26.3.2015 of the Joint Commissioner (Appeals), Commercial Taxes, Central Division, Patna.

Upon submission of learned counsel for the petitioner to stay the balance amount demanded on payment of 20% of the disputed amount, the Appellate Authority has directed the petitioner to deposit 35% of the disputed amount.

Learned counsel for the petitioner submits that the respondents have already recovered a substantial amount of Rs.2.23 crores after the attachment of the bank account of the petitioner and thus the Appellate Authority ought to have stayed the remaining part of the dues.

Learned counsel for the petitioner further points out that this Court has already taken note of the fact that there has been repeat assessment of the same amount under Sections 31 and 33 of the Act which is to the extent of Rs.1.45 crores and at the very least the petitioner is entitled to the benefit of reduction of the said amount while paying 35% as directed by the Joint Commissioner.

We are of the view that the last part of the submission of learned counsel for the petitioner is reasonable.

So far as the repeat assessment of the amount under two different provisions is concerned, it is evident that the respondents cannot be permitted to do so. It is, therefore, directed that upon the petitioner depositing 35% of the disputed amount subject to the deduction therefrom of Rs.1.45 crores, which is a repeat demand, the balance demand shall remain stayed until the decision of the appeal by the Joint Commissioner (Appeal).

Both the writ applications are, accordingly, disposed of with the above observations and directions.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

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