IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7316 of 2015

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M/s Ferrovia Transrail Solutions Private Limited, a private limited company incorporated and registered under the Indian Companies Act, 1956 and having its registered office at 14th Floor, Antarikash Bhawan, 22, Kasturba Gandhi Marg, New Delhi-110001 and Administrative Office at CS-8-10, 6th Floor, Tower-A, The Corenthum, A-41, Sector-62, Noida-201301 (UP) through its power of attorney holder and Jr. Executive-Accounts Sri Shri Vivek son of Sri Amrendra Kumar Singh, resident of House No. 444, New Area, Near Gayatri Mandir, Sasaram, P.S. Muffasil Thana, Sasaram and District Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commercial Taxes Department, Government of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, New Secretariat, Patna
3. The Commissioner-cum-Principal Secretary, Commercial Taxes Department, New Secretariat, Patna
4. The Deputy Commissioner of Commercial Taxes, Sasaram Circle, Sasaram

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Agrawal

For the Respondent/s : Mr. Vikash Kumar, AC to PAAG

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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)

3 22-05-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the orders dated 22.1.2015 (Annexures 4 and 5) by which the applications filed by the petitioner for issuance of form-C under the Central Sales Tax, 1956 has been rejected on the ground that the dealer is not paying entry tax on the import value of scheduled goods and for consequential directions.

In support of his stand, learned counsel for the petitioner relies upon a decision of this Court dated 13.03.2015 in CWJC No. 14333 of 2014 (Tata International Limited Vs. The State of Bihar & Anr.) in which it has been held that since the efficacious mode of recovery of tax is available to the respondent authorities under the provisions of the Central Sales Tax Act read with Bihar Value Added Tax Act and the Rules, the same cannot be used for the purpose of denying issuance of Form-C and Form-F.

Learned counsel for the State submits that in the case of Tata International Limited the assessment had been made after the date of application and it was in the said context that the observations were made in the said judgment.

Learned counsel for the petitioner points out that as a matter of fact, in the present matter also applications were made on 7.1.2015 and 9.1.2015 whereas the order of rejection is dated 22.1.2015.

In our view the observations made in the aforesaid judgment in Tata International Limited (supra) clearly apply to the case of the petitioner of the present case. However, the real purport of the said decision was that the respondent authorities have proper efficacious mode of recovery of tax under the provisions of the State enactment and the same cannot be used for denying the issuance of Form-C and Form-F and as a matter of fact, whether assessment were made before or after the date of application does not affect the substance of the matter.

The writ application is, accordingly, allowed. The impugned orders both dated 22.1.2015 are quashed and the respondents are directed to issue Form-C to the petitioner in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Anjana Mishra, J)

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