IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4186 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. Sandeep Kumar (GA-8)
Mr. Rajesh Ranjan, 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)

4 27-03-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the notice dated 13.3.2015 issued under Section 47 of the Bihar Value Added Tax Act, 2005 in respect of tax demands raised against the petitioner for the periods 2010-11, 2011-12 and 2012-13 in so far as it concerns the demands under the Bihar VAT Act.

It is submitted by learned counsel for the petitioner that the petitioner, aggrieved by the impugned order of assessment passed by the Assessing Officer, moved by filing an appeal, before the Joint Commissioner, Commercial Tax (Appeals), Central Division, Patna. It is also submitted by learned counsel that as against the requirement under Section 72 of paying the admitted tax or the 20% of the assessed tax, the petitioner has already paid an amount of approximately Rs. 63 lacs over and above the entry tax earlier paid. It is urged that the case of the petitioner is covered by the judgment of the Supreme Court in Idea Mobile Communication Ltd. Vs. Commissioner of Commercial Taxes: (2011) 43 VST 1 (SC) which order has also been relied upon by the Commercial Taxes Tribunal in one of the cases.

On a consideration of the facts and circumstances of the case, the writ application is disposed of with a direction to the Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna to consider and dispose of the appeal of the petitioner within a period of six weeks from the date of receipt/production of a copy of this order.

Until the decision on the appeal, no coercive action shall be taken against the petitioner.

With regard to the demand of approximately Rs.

27 lacs in the notice under Section 47 for the period 2013-14 under the CST Act, learned counsel for the petitioner submits that he would be challenging the said order in a separate writ proceeding before this Court as the only reason for raising such demand has been the inability of the petitioner to supply necessary Form-'C' which the petitioner could not receive from the Jharkhand authorities who are not issuing the said Form. Liberty is granted to the petitioner for the same.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

S.Pandey/-

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