IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1383 of 2016

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M/s More Bricks, Village-Bhutiabhitta, Mauza-Bhelaguri, P.S.- Sukhani, Anchal- Thakurganj and District-Kishanganj through its proprietor Manoj Kumar More, Son of Sri Nand Kishore More, resident of Thakurganj, P.O. & P.S.- Thakurganj and District- Kishanganj.

.... Petitioner.

Versus

1. The State of Bihar through the Commissioner cum-Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj, District- Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.1349 of 2016

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M/s More Bricks, Village-Bhutiabhitta, Mauza-Bhelaguri, P.S. Sukhani, Anchal-Thakurganj and District-Kishanganj through its Proprietor Manoj Kumar More, Son of Nand Kishore More, resident of Thakurganj, P.O. & P.S. Thakurganj and District Kishanganj.

.... Petitioner.

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj, District- Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.1343 of 2016

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M/s More Bricks, Village-Bhutiabhitta, Mauza-Bhelaguri, P.S. Sukhani, Anchal-Thakurganj, and District-Kishanganj through its Propreitor Manoj Kumar More, Son of Sri Nand Kishore More, resident of Thakurganj, P.O. & P.S Thakurganj,and District-Kishanganj.

.... Petitioner.

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner of Commercial Taxes, Kishanganj, Circle-Kishanganj, District Kishanganj.

.... Respondents

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with

Civil Writ Jurisdiction Case No.18410 of 2015

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M/s Ganesh Bricks, Village-Kukurbagi, P.O.- Churli- 855118, District-Kishanganj through its proprietor Sunil Agarwal, Son of Sri Jai Narayan Agarwal, resident of Mohalla- Gurunanak Sarani, Punjabi Para, Silliguri-734001, P.S.- Silliguri and District- Darjeeling.

.... Petitioner.

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Commercial Taxes Officer, Kishanganj Circle, Kishanganj, District-Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.17644 of 2015

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M/s Ganesh Bricks, Village Kukurbagi, P.O. Churli - 855118, District Kishanganj through its Proprietor Sunil Agarwal, Son of Sri Jai Narayan Agarwal, resident of Mohalla - Gurunank Sarani, Punjabi Para, Silliguri - 734001, P.S. Silliguri and District Darjeeling.

.... Petitioner.

Versus

1. The State of Bihar through the Commissioner- Cum- Principal Secretary, Commercial Taxes Department, Bihar, having its Office at Vikash Bhawan, Bailey Road, Patna.
2. The Commercial Taxes Officer, Kishanganj Circle, Kishanganj, District – Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.1466 of 2016

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M/s SONA BRICKS (Previously known as M/s. Gold Bricks), Village-Singhia, Kulamani P.O. Singhia, P.S. Kishanganj and District Kishanganj though its proprietor Masud Alam, son of Late Hazi Abul Mazeed, resident of Village-Line Khanquah Road, P.S. Kishanganj and District Kishanganj.

.... Petitioner.

Versus

1. The State of Bihar through the Commissioner-cum- Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.

2. The Assistant Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj, District- Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.1361 of 2016

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M/s MORE BRICKS, Village-Bhutiabhitta, Mauza Bhelaguri, P.S. Sukhani, Anchal Thakurganj and District Kishanganj though its proprietor Manoj Kumar More, son of Sri Nand Kishore More, resident of Thakurganj, P.O & P.S. Thakurganj and District Kishanganj.

.... Petitioner.

Versus

1. The State of Bihar though the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj, District- Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.1363 of 2016

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M/s MORE BRICKS, Village-Bhutiabhitta, Mauza Bhelaguri, P.S. Sukhani, Anchal Thakurganj and District Kishanganj though its proprietor Manoj Kumar More, son of Sri Nand Kishore More, resident of Thakurganj, P.O & P.S. Thakurganj and District Kishanganj..

.... Petitioner.

Versus

1. The State of Bihar though the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj, District- Kishanganj.

.... Respondents.

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with

Civil Writ Jurisdiction Case No.1371 of 2016

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M/s MORE BRICKS, Village-Bhutiabhitta, Mauza Bhelaguri, P.S. Sukhani, Anchal Thakurganj and District Kishanganj though its proprietor Manoj Kumar More, son of Sri Nand Kishore More, resident of Thakurganj, P.O & P.S. Thakurganj and District Kishanganj.

.... Petitioner.

Versus

1. The State of Bihar though the Commissioner-cum-Principal Secretary,

Commercial Taxes Department, Bihar, having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Assistant, Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj, District- Kishanganj.

.... Respondents

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Appearance :
(In CWJC No.1383 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Purnendu Singh, G.P. 27.
(In CWJC No.1349 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Purnendu Singh, G.P. 27.
(In CWJC No.1343 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Purnendu Singh, G.P. 27.
(In CWJC No.18410 of 2015)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. A.K. Sinha, G.A. 9.
(In CWJC No.17644 of 2015)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Lalit Kishore, P.A.A.G.
(In CWJC No.1466 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Smt. Nivedita Nirvikar, G.A. 10.
(In CWJC No.1361 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Purnendu Singh, G.P. 27.
(In CWJC No.1363 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Purnendu Singh, G.P. 27.
(In CWJC No.1371 of 2016)
For the Petitioner : Mr. Ramesh Kumar Agrawal, Advocate.
For the Respondents : Mr. Purnendu Singh, G.P. 27.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 27-01-2016 Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners have come up before this Court challenging the various assessment orders passed under the Bihar

Tax on Entry of Goods into Local Areas for Consumption Use or Sale Therein Act, 1993 as also under the Bihar VAT Act.

Learned counsel for the petitioners has assailed the assessment orders on different grounds. However, we do not find any jurisdictional issue arising in the matter in the present cases as the petitioners were duly noticed in the proceeding both under the Bihar Entry Tax Act and under the Bihar VAT Act and only thereafter the assessment orders have been passed.

In the aforesaid circumstances, all the writ applications are dismissed with liberty to the petitioners to take recourse the statutory remedies available to them.

One fact pointed out by the learned counsel for the petitioners is that in such case, assessment has been made with regard to consumption, use or sale both under the Bihar Entry Tax Act and under the Bihar VAT Act. The demand raised under the Bihar Entry Tax Act has not been set off against the demand raised under the Bihar VAT Act, which is in violation of the provisions of sub Section (2) of Section 3 of the Bihar Entry Tax Act. The said set off is statutory and provided to the dealers, which ought to have been mandatorily granted to that extent. Any demand raised under the Bihar VAT Act without granting the benefit of set off as far as the demand under the Bihar Entry Tax

Act is concerned, would be illegal.

Let the demand notice under the Bihar VAT Act be corrected accordingly by the respondent authorities, wherever it is so required.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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