IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13650 of 2016

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Lava International Limited, a Company incorporated under the Companies Act, 1956 having its Corporate Office at A-56, Sector-64, Noida, U.P. 201, 301 and branch office at 1st Floor, Narayani Bhawan, Jamal Road, Patna- 800 001 through its authorized signatory Sanjay Kumar Tekriwal, son of Late Shri Mata Din Tekriwal resident of Sharda Sadan, Milan Auto Works Lane, Kankarbagh Main Road, Near S.B.I. P.O. Lohiya Nagar, P.S.- Kankarbagh, Patna.

.... Petitioner/s

Versus

1. State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikash Bhawan, Bailey Road, Patna.
2. Dy. Commissioner of Commercial Taxes, Patliputra Circle, Patna.
3. Assistant Commissioner of Commercial Taxes, Patliputra Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. R.K. Aggarwal, Advocate.
Mrs. Manju Jha, Advocate.

For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 18-08-2016

Heard learned counsel for the parties.

2. The petitioner has challenged the notice dated 5th of August, 2016 issued by Assistant Commissioner of Commercial Taxes, Patliputra Circle, Patna under Section 47 of the Bihar Value Added Tax Act, 2005 attaching the bank account of the petitioner.

3. As per the petitioner, different appeals have been filed and are pending but still, the department has initiated action to attach the Bank Accounts of the Petitioner. Appeals relating to

Assessment Years 2011-12, 2012-13, 2013-14 and 2014-15 have been filed before learned Joint Commissioner of Commercial Taxes (Appeals), Central Division, Patna on 20th of April, 2016 whereas, appeals before the learned Commercial Taxes Tribunal, Bihar, Patna have been filed for the Assessment Years 2009-10 to 2012-13 on 14th of June, 2016.

4. It is pointed out by the petitioner that although such appeals have been preferred but the application for stay has not been decided. On the other hand, the Assessing Officer is proceeding with the recovery of the tax amount by attachment of the Bank Accounts.

5. Mr. Vikash Kumar, learned counsel for the Respondents relies upon an order passed by the Hon'ble Supreme Court in Civil Appeal Nos. 11486-11487 of 2014 decided on 17th of December, 2014 (State of Punjab & Ors. Vs. Nokia India Pvt. Ltd.) holding that chargers for charging of the mobile hand-set are separate product and attracts Value Added Tax. Therefore, there is no debatable issue which is required to be decided in appeals as the issues stand concluded by the Supreme Court order.

6. After hearing learned counsel for the parties, we deem it appropriate to direct the Joint Commissioner of Commercial Taxes (Appeals), Central Division, Patna and also learned Commercial Taxes Tribunal, Bihar, Patna to decide the respective

appeals pending before them in accordance with law expeditiously, preferably within a period of one month.

7. In the meantime, the bank account of the petitioner shall not be attached but the petitioner shall not reduce the Bank balance to the amount less than the amount on the date of letter of attachment of the Bank Accounts.

8. The writ application is disposed of accordingly.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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