IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4618 of 2016

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Anchor Electricals Pvt. Ltd., a Company incorporated under the Companies Act having its registered office at 3rd Floor, I Think Techno Campus, Pokhran Road No. 2, Thane, P.O. + P.S. Thane, Mumbai, Maharasthra and Branch office at F1, 1st Floor, Gitanjali Palace, Jamal Road, P.O. Jamal Road, P.S. Gandhi Maidan, Patna through its Asstt. Manager (Accounts), Mukesh Kumar, Son of Sri Lal Babu Prasad, Kaimashikoh, Behind Electricity Office, Patna City, P.O. Jhauganj, P.S. Chowk, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikas Bhawan, Bailey Road, Patna
2. Commercial Taxes Officer, Patliputra Circle, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5301 of 2016

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Anchor Electricals Pvt. Ltd., a Company incorporated under the Companies Act having its registered office at 3rd Floor, I Think Techno Campus, Pokhran Road No. 2, Thane, P.O. + P.S. Thane, Mumbai, Maharashtra and Branch Office at F1, 1st Floor, Gitanjali Palace, Jamal Road, P.O. Jamal Road, P.S. Gandhi Maidan, Patna through its Asstt. Manager (Accounts), Mukesh Kumar, son of Sri Lal Babu Prasad, Kaimashikoh, Behind Electricity Office, Patna City, P.O. Jahuganj, P.S. Chowk, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikas Bhawan, Bailey Road, Patna.
2. Commercial Taxes Officer, Patliputra Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, 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: 09-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ applications is to an order passed by the Commercial Taxes Officer, Patliputra Circle, Patna on 27th of January, 2016 (in C.W.J.C. No. 4618 of 2016), on 19th of February, 2016 (in C.W.J.C. No. 5301 of 2016) under Section 31(1) of the Bihar Value Added Tax Act, 2005.

3. The petitioner has challenged the said orders on the ground that the goods sold by the petitioner are industrial inputs in terms of Entry- 79 of Schedule-III of the Act; therefore, goods sold shall attract Value Added Tax at the rate of 5% in terms of Entry- 189 of Part-III of the said Schedule.

4. The question as to whether the goods sold by the petitioner attract tax at the rate of 5% or 13.5% is a question of fact in view of the nature of transactions and goods sold. It is open to the petitioner to avail alternative statutory remedy in support of its contention in the manner it considers appropriate. Therefore, we

refrain ourselves from exercising the writ jurisdiction and dispose of the present writ applications with liberty to the petitioner to avail the alternative statutory remedy in accordance with law.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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

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