IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8396 of 1992

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1. M/s. Skylight Decorators through Sri L. Lakhaiyar, proprietor, Jahaji Kothi, Kadamkuan, Patna.
2. M/s. New Janta Decorators through Sri Haricharan Singh, proprietor, Patliputra Colony, Patna
3. M/s. Punjab Tent House through Surendra Singh, proprietor, Khajanchi Road, Patna.
4. M/s. Anil Decorators through Niranjan Kumar, proprietor, Boring Road, Patna
5. M/s. Prakash & Co. through Om Prakash, proprietor, Jahaji Kothi, Kadamkuan, Patna.
6. M/s. Patna Janta Crockery through Rajendra Prasad, proprietor, Jahaji Kothi, Kadamkuan, Patna.
7. M/s. Janta Crockery through Gurmukh Singh, Jahaji Kothi, Kadamkuan, Patna.
8. M/s. New Punjab Crockery through Harbansh Singh, proprietor, Naya Tola, Patna.
9. M/s. New Vaishali Tent House through Prabhash Prasad, proprietor, Gosain Tola, Patliputra, Patna
10. M/s. Bharat Lal Tent House, New Area, Jakkanpur, Purandarpur, Patna, through Yugal Kishore, proprietor.
11. M/s. Krishna Docorators, Alpana Market, Patliputra,Patna through Ramsewak Mukhia, proprietor
12. M/s. Crockery House, Prithvi Singh Market, Kadamkuan, Patna through Harbansh Singh, Proprietor…………….. Petitioners

Versus

1. The State of Bihar through Financial Commissioner, Government of Bihar, Old Secretariat, Patna.
2. The Commissioner of Commercial Taxes, New Secretariat, Patna.
3. The Dy. Commissioner of Commercial Taxes, Patna South Circle, Patna.
4. The Asstt. Commissioner of Commercial Taxes, Patliputra Circle, Patna.
5. The Union of India through Ministry of Finance, New Delhi. …. Respondents

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Appearance :

For the Petitioner/s : Mrs. Archana Singh
Ms. Shalini Bihari

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

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)
Date: 08-01-2016

Heard learned counsel for the petitioners and learned counsel for the State.

The writ application has been filed for quashing the notices issued by the Deputy Commissioner of Commercial Taxes, South Circle, Patna and A.C.C.T., Patlipura Circle, Patna, by which proceedings have been initiated under Section 17 (5) of the Bihar Finance Act, 1981 on the basis of certain inspection reports holding that there were grounds to believe that the petitioners were liable to pay tax in respect of the business of hiring of Shamyanas, erection of Pandals, Crockeries, Chairs, Tables, etc. The petitioners further seek declaring the definition sales given under Section 2 (t) sub-clause (iv) of the said Act by which right to use any goods has been included in the definition of sale as wholly beyond the competence of the State Legislature on various grounds.

So far as the definition of sale is concerned, it merely reiterates the definition given under Article 366 (29-A) of the Constitution of the expression “tax on sale or purchase of goods” which is exactly on the same lines.

In the aforesaid view of the matter, we are not inclined to interfere with the notices issued by the respondents.

The writ application is, accordingly, disposed of with liberty to the petitioners to file their replies to the notices in question and to the respondents to proceed in accordance with law.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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