## IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.5023 of 2016**

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M/s Essveegee Breweries Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at 3rd Floor, Antara Tower, Opp. Sadar Thana, Pan Bazar, Guwahati, Assam through its authorized signatory Manish Pandey, son of Umesh Pandey, resident of Ward No.6, Salahabad, PS Salempur, District-Deoriya ( U.P.)

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commission, Commercial Taxes Department, Bihar, Patna.
2. The Commissioner, Commercial Taxes, Bihar, Patna.
3. The Deputy Commissioner, Commercial Taxes, Patna City West Circle, Patna City, Patna.
4. The Bihar State Beverage Corporation Limited, a Government of Bihar undertaking, having its registered office at Eastern Wing, 1st Floor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna-1 through its Managing Director.
5. The Managing Director, the Bihar State Beverage Corporation Limited, having its registered office at Eastern Wing, 1st Fllor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna-1.
6. The General Manager, Finance, the Bihar State Beverage Corporation Limited, having its registered office at Eastern Wing, 1st Floor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna-1.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Satyabir Bharti, Advocate

For the Respondents : Mr. Vikash Kumar, A.C. to P.A.A.G.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**And**

**HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)**

**Date: 11-03-2016**

The challenge in the present petition is to the demand notice dated 2nd of March, 2016 demanding a sum of Rs.5 Crores as the tax due in exercise of the powers conferred under Section 47 of the Bihar Value Added Tax Act, 2005 ( for short, 'the Act').

The petitioner is a licencee for manufacture and sale of country-made liquor. In terms of Section 3(7) of the Act, the petitioner has been called upon to deposit a sum of Rs.2.20 crores in respect of value added tax for the month of February, 2016 by 15th of March, 2016 and a sum of Rs.2.50 crores for the month of March, 2016 by 22nd of March, 2016.

Admittedly, there is an approval granted by the Commissioner of Commercial Taxes, Bihar, Patna on 1st of February, 2016 allowing the concerned Circle Incharge of Commercial Taxes Department to recover the advance tax up to the month of March, 2016 in the month of March, 2016 itself. Thus, the communication dated 22nd February, 2016 (Annexure-2) is in tune with the provisions of the statute contained in Section 3(7) of the Act.

The only difficulty is that the total amount due comes out to be Rs.4.70 crores, out of which Rs.2.20 crores is to be paid by 15th of March, 2016 and another Rs.2.50 crores is to be paid by 22nd of March, 2016, but the demand of Rs.5 crores have been made on 2nd of March, 2016 even before the stipulated dates.

Learned counsel for the State fairly concedes that the State will not press the demand beyond Rs.2.20 crores before 15th March, 2016 and Rs.2.50 crores before 22nd March, 2016.

In view of the said fact, no further orders are called for in the present writ application. The notice, as contained in Annexure-3 to the writ application, shall be deemed to be modified in the above terms.

The writ application stands disposed of.

**(Hemant Gupta, J)**

**(Ramesh Kumar Datta, J)**

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