IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19271 of 2015

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M/s Pidilite Industries Limited, a company incorporated under the Provisions, of the Companies Act, 1956, having its registered office at Regent Chambers, 7th Floor, 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai-21, having its branch office at Didarganj, Near Rajdhani Petrol Pump , Po Madhav Mills, P.s Didarganj, District Patna-800008, through its Authorized Representative , Sunil Poddar Son of late S.L. Poddar, Resident of Exhibition Road, Ashoka Place, Block -A, 7th, Floor, Po , G.P.O. , P.s Gandhi Maidan, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Commissioner Taxes, Vikas Bhavan, Bailey Road, Patna.
3. The Joint Commissioner of Commercial Taxes(Appeal), Central Division, Patna.
4. The Deputy Commissioner of Commercial Taxes, Specail Circle, Patna.
5. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.19448 of 2015

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M/s Pidilite Industries Limited, a company incorporated under the provisions of the Companies Act, 1956, having its registered office at REgent Chambers, 7th Floor, 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai - 21, having its branch office at Didarganj, Near Rajdhani Petorl Pump, P.O. Madhav Mills, P.s. Didarganj, District Patna - 800008, through its Authorized Representative, Sunil Poddar, Son of Late S.L. Poddar, Resident of Exhibition Road, Ashoka Place, Block - A, 7th Floor, P.O. G.P.O., P.S. Gandhi Maidan, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Commissioner of Commercial Taxes, Vikas Bhavan, Bailey Road, Patna.
3. The Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna.
4. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
5. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.149 of 2016

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M/s Pidilite Industries Limited, a Company Incorporated under the Provisions of the Companies Act, 1956, aving its registered office at Regent chambers, 7th Floor, 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai - 21, having its branch office at Didarganj, near Rajdhani Petrol Pump, P.O. Madhav Mills, P.S. Didarganj, District Patna - 800008, through its Authorized Representative, Sunil Poddar, Son of Late S.L. Poddar, Resident of Exhibition Road, Ashoka Place, Block - A 7th Floor, P.O. G.P.O., P.S. Gandhi Maidan, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Commercial Taxes Tribunal through the Commissioner of Commercial Taxes, Vikas Bhavan, Bailey Road, Patna.
3. The Department of Commissioner of Commercial Taxes, Vikash Bhavan, Bailey Road, Patna.
4. The Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna.
5. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
6. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.252 of 2016

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M/s Pidilite Industries Limited, a company incorporated under the provisions of the Companies Act, 1956, having its registered office at REgent Chambers, 7th Floor 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai - 21, having its branch office at Didarganj, Near Rajdhani Petrol Pump, P.O. Madhav Mills, P.s. Didarganj, District Patna - 800008, through its Authorized Representative, Sunil Poddar, Son of Late S.L. Poddar, Resident of Exhibition Road, Ashoka Place, Block - A, 7th Floor, P.O. G.P.O. P.S. Gandhi Maidan, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Commissioner of Commercial Taxes, Vikas Bhavan, Bailey Road, Patna.
3. The Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna.
4. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
5. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.295 of 2016

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M/s Pidilite Industries Limited, a Company incorporate under the Provisions of the Companies Act, 1956, having its registered office at Regent Chambers, 7th Floor, 208, Nariman Point, Jamuna Lal Bajaj Marg, Mumbai- 21, having its branch office at Didarganj, Near Rajdhani Petrol Pump, P.O Madhav Mills, P.S. Didarganj, District District Patna- 800008, through its Authorized Representative, Sunil Poddar, son of Late S.L. Poddar, resident of Exhibition Road, Ashoka Place, Block- A, 7th Floor, P.O. G.P.O. P.S. Gandhi Maidan, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Commissioner of Commercial Taxes, Vikas Bhavan, Bailey Road, Patna.
3. The Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna.
4. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
5. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mr. Suraj Samdarshi, Advocate

For the State : Mr. Vikash Kumar, AC to PAAG

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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)

9 01-03-2016 Heard learned counsel for the petitioner and learned counsel for the State in all the writ applications.

All the five writ applications arise out of the different appellate orders passed by the Joint Commissioner of Commercial Taxes (Appeal), Special Circle by which he has allowed the appeal and remanded the matters to the assessing authority. The petitioner herein is aggrieved by passing of the order of remand.

The burden of the submission of learned Senior counsel appearing for the petitioner is that since the opportunity is before the appellate authority and the matter had been heard at length and various comments have also been made with regard to the classification of different items, there was no power with the appellate authority to have remanded the matter to the assessing authority.

Learned counsel for the State, on the other hand, submits that the petitioner cannot claim to be aggrieved by the order of remand as all the demand raised has been set at naught and liberty has also been granted to the petitioner to press further evidence by the appellate order.

It is also submitted by learned counsel for the State that two orders had been passed by the assessing authority for the same period and that has also led to the order of remand so that an order may be passed by the assessing authority keeping in view all aspects of the matter after hearing the petitioner.

It is contended by learned counsel for the State that it is not a case of repeated remand and the power exercised by the assessing authority is well within the scope of Section 72(4)(a)(ii) of the Bihar VAT Act.

On a consideration of the facts and circumstances of the case and the orders impugned before us, we are inclined to accept the submission of learned counsel for the State. The order passed by the appellate authority is well within its jurisdiction and if the petitioner was aggrieved by the said order of remand, which in a way inures to the benefit of the petitioner, it was open to the petitioner to have taken recourse to the statutory remedies available.

Since we do not find any inherent lack of jurisdiction or glaring illegality in the order passed by the appellate authority, we see no reason to interfere with the same in exercise of powers under Article 226 of the Constitution.

The writ applications are, accordingly, dismissed with liberty to the petitioner to take recourse to appropriate statutory remedy, if so advised.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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