IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13604 of 2009

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M/S Nalanda Electrosteels Pvt. Ltd. A Company incorporated under the Provisions of the Companies Act, 1956 having its registered Office at 2nd Floor, Biscomaun Tower, P.S.- Gandhi Maidan, Distt.- Patna through its Managing Director, Sunil Kumar Singh, S/O Shri Maharana Pratap Singh, Resident of 101, Kanti Palace, Lal Bahadur Shastri Nagar, P.S.- Shastri Nagar, Town & Distt.- Patna

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-Cum-Commissioner of Commercial Taxes, Bihar, Patna
2. The Dy. Commissioner of Commercial Taxes, Patna City East Circle, Patna
3. The Commercial Taxes Officer, Patna City East Circle, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.D.Sanjay, Sr. Advocate
Ms. Parul Prasad, Advocate

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

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-03-2018

Seeking exemption from payment of Entry Tax on the raw material and the products in question, the petitioner has filed this writ petition. However, when the writ petition was filed the petitioner had challenged the Constitutional validity and the right of the State Government to impose Entry Tax by bringing into force the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993.

The question of Constitutional validity of the aforesaid Act and the right of the State Government to impose Entry Tax has been considered by the Constitution Bench of the Supreme Court in the case of **Jindal Stainless Ltd. & Anr. Vs. State of Haryana & Ors.-(2017) 12 SCC 1** and now the petitioner has to appear before the Assessing Officer and raise such objections as are permissible under law with regard to their liability to pay the Entry Tax in view of the exemption notification issued by the State Government SO478 and 479 dated 22.12.1995 so also judgments with regard to the issue in question as may be ordered or available.

Accordingly, granting liberty to the petitioner to file a certified copy of this order within 45 days from today and requesting the Assessing Officer to consider all their objection and decide the question of payment of Entry Tax for the assessment year in question, we dispose of the matter as now the Constitutional validity of the provision need not be looked into by us in view of the Constitution Bench judgment in the case of **Jindal Stainless Ltd.** (supra). It is made clear that the Appellate Authority shall not reject the appeal on the ground of delay. The petitioner is also granted liberty to file application for stay of the recovery of duty and till a decision is not taken on the stay application, coercive action for recovery from the petitioner shall be kept in abeyance.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	22.03.2018
Transmission Date	