IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15305 of 2017

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Birla Corporation Ltd, a company incorporated under the Companies Act, 1956 having its Head Office at 9/1 R.N. Mukherjee Road, Kolkata and Regional Office at 301-303 Ashiana Towers, Exhibition Road Patna - 800003 through its Dy. General Manager (Accounts and Taxation) Kamlesh Chandra Chourasia, son of Late Sharda Prasad Chourasia resident of 1453, Kidwai Nagar, P.O. Allahpur, P.S. George Town Allahabad.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 15306 of 2017

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Birla Corporation Ltd, a company incorporated under the Companies Act, 1956 having its Head Office at 9/1 R.N. Mukherjee Road, Kolkata and Regional Office at 301-303 Ashiana Towers Exhibition Road Patna - 800003 through its Dy. General Manager (Accounts and Taxation) Kamlesh Chandra Chourasia son of Late Sharda Prasad Chourasia resident of 1453, Kidwai Nagar, P.O. Allahpur, P.S. George Town Allahabad.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.15305 of 2017)

For the Petitioner/s : Mr. D.V.Pathy
Mr. D B Gupta, Ms. Manju Jha
Mr.Sadashiv Tiwary

(In CWJC No.15306 of 2017)

For the Petitioner/s : Mr. D.V.Pathy
Mr. D B Gupta, Ms. Manju Jha
Mr.Sadashiv Tiwary

For the Respondent/s : Mr. VIKASH KUMAR -SC11
Mr. Shiv Krishna

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 08-01-2018

Both these writ petitions have been filed calling in question the order of assessment passed by the competent Assessing Officer with regard to imposition of entry tax under the Bihar Value Added Tax Act, 2005. Challenge to the same is made primarily on the ground that formation of opinion for re-assessment has not been undertaken in accordance with law.

However, after hearing learned counsel for the parties at length, we find that various questions of law and facts involved in the matter. It is not a simple case where the question of formation of opinion is only to be considered. We find that apart from the fact as to whether it is a case under Section 31 of the Bihar Value Added Tax Act is applicable is a question involved, the petitioners appeared before the Assessing authorities, who has passed the order based on certain document, account books and vouchers produced by the petitioners.

Taking note of the circumstances and the objection raised by the respondents that the petitioners have a statutory remedy under Section 72 of the Bihar Value Added Tax, we are not inclined to exercise our extra-ordinary jurisdiction in the matter under Article 226 of the Constitution. Instead, we are giving liberty to the petitioners to move the statutory authority by way of appeal or revision as may be available and the appellate authority would be in a better position to consider the objection and issues in question. However, before the appellate or revisional authority the petitioners are granted liberty to file an appropriate application for stay of the demand pending finalization of the statutory provision and till orders are not passed by the statutory appellate order or revisional order on the said application no coercive step for recovery shall be initiated.

With the aforesaid, both the petitions stand disposed of.

(Rajendra Menon, CJ)

mrl./-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.01.2018
Transmission Date	