IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5703 of 2009

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M/s Patwari Steels Pvt. Ltd., a company incorporated under the provisions of Companies Act, 1956 having its Factory Site at G 1/11, Phase- III, Industrial Area, P.O. & P.S. Fathwah, Town and District Patna through its Director Subhash Kumar Patwari son of late Satya Narain Patwari, Resident of Road No. 6-A, Rejendra Nagar, P.S. Kadamkuan, Town and District Patna

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Vikash Bhawan, Bailey Road, Patna
2. The Joint Commissioner of Commercial Taxes (Admn.) Patna Division, Patna
3. The Deputy Commissioner of Commercial Taxes, Patna City East Circle, Patna Division, Patna City
4. The Commercial Taxes Officer, Patna City, East Circle, Patna Division, Patna City

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. D. Sanjay, Sr. Advocate Mr. Gautam Kumar Kejriwal, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

12 17-08-2020 Petitioner has prayed for the following relief(s):

> “(i) For issuance of a writ in the nature of Writ of Certiorari for quashing of the orders of assessment dt.17.1.2003 for the period 2001-02, 30.6.2004 for 2002-03, 24.10.2005 for 2003-04, 16.3.2007 for 2004-05 & 11.8.2008 for 2005-06 passed by the Respondent Deputy Commissioner of Commercial Taxes, Patna City, East Circle, Patna city whereby the petitioner Company has been assessed under section 8 of the Bihar Tax on Entry of Goods into

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Local Area for Consumption, Sale or Use Therein Act, 1993 (hereinafter referred to as 'The Bihar Entry Tax Act) read with Section 17(2) of the Bihar Finance Act, 1981 (now repealed), as the same is wholly illegal and without jurisdiction;

(ii) For issuance of a writ in the nature of writ of Certiorari for quashing of the Notice of Demands issued by the Respondent assessing authority upon the Petitioner pursuant to the impugned orders of assessment being illegal and unsustainable in the eyes of law, in absence of jurisdiction to pass any assessment order from which such notices of demand emanates;

(iii) For issuance of a Writ in the nature of Mandamus directing the Respondents to refund the entire amount of Entry Tax realized from the Petitioner for the Financial Year 2001-2002 to 2005-2006, in view of the order dated 9.1.2007 passed by this Hon'ble Court in the matter of ***Indian Oil Corporation Ltd. vs. State of Bihar & Ors***. reported in ***2007 [1] PLJR 502*** whereby all subsequent amendments made in the provisions of the Bihar Entry Tax Act between the period 2001 till 28.8.06 have been held to be ultra vires the provisions of the Constitution of India and hence struck down by this Hon'ble Court;

(iv) For issuance of a writ in the nature of a declaration that the Petitioner is entitled to an interest over the refund of entry tax deposited by the Petitioner for the Financial Years 2001-2002 to 2005-2006, in view of the damaged suffered by the

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Petitioner due to illegal and arbitrary collection of entry tax by the Respondents; and for any other relief[s] for which the Petitioner may legally be found entitled to in the facts and circumstances of the present case."

Shri Vikash Kumar, learned Standing Counsel No. XI states that the issue raised in the present petition is squarely covered vide judgment passed in the case of **Jindal Stainless Ltd.& Anr vs State Of Haryana & Ors,** (2017) 12 SCC 1.

Shri S.D. Sanjay, learned senior counsel states that the petitioner be permitted to file a fresh petition, if so required and desired, with regard to any surviving grievance.

Liberty is granted.

Petition stands disposed of in the aforesaid terms. Interlocutory application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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