IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10647 of 2010

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M/S LAKSHMI TIMBER COMPANY a proprietorship concern having its place of business at Near Picture Palace, Khalifabagh P.S.-Kotwali District-Bhagalpur, through its Proprietor Ashok Kumar Patel.

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR Govt. of Bihar, Old Secretariat,Patna.
2. The Principal Secretary Cum Commissioner Of Commercial Taxes, Bihar, Vikash Bhawan, Bailey Road, Patna.
3. The Joint Commissioner Of Commercial Taxes Admn., Bhagalpur Division,Bhagalpur.
4. The Dy. Commissioner Of Commercial Taxes Incharge, Bhagalpur Circle,Bhagalpur.

... ... Respondent/s

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Appearance :
For the Petitioner/s :
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)

4 24-09-2020 Petitioner has prayed for the following relief(s):-

"(i) For the issuance of a rule in the nature of writ of prohibition for restraining them from making demand of Entry Tax at the rate of 8% on timber and other wood materials specified in item no.15 of Schedule vide Notification-S.O. No.95 dated 31-07-08 which is in excess of and against the rate of Bihar Value Added Tax 2005 (For short-Bihar VAT Act) for the aforesaid products at the rate of 4%.

(ii) For issuance of a rule in the nature of writ of mandamus for declaration that the Notification-S.O. No.95 dated 31-07-08 in the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 (For short-Entry Tax Act) prescribing the rate of Entry Tax on timber and other wood products being 8% against the rate of timber and other wood products under the Bihar VAT being 4% is liable to be declared ultra vires.

(iii) For the issuance of a rule in the nature of writ of mandamus for a declaration that the Entry Tax (amendment and Validation) Act 2007 dated 10-04-2007 (Bihar Act 12 of 2007) (For short-Amendment Act 2007) and the Entry Tax (Amendment and Validation) Act 2008 dated 15-04-08 (Bihar Act 13 of 2008) (For Short-Amendment Act 2008) being enforced with retrospective effect from 29-08-2006 are ultra vires Articles 14, 19 (1) (g), 246, 301 and 304 of the Constitution of India.

(iv) For the issuance of a rule in the nature of writ of mandamus for a declaration that the Amendment Act 2007 and the Amendment Act 2008) are violative of the proviso to Article 304(b) of the Constitution of India for want of previous sanction by the President.

(v) For the issuance of a rule in the nature of writ of mandamus for a declaration that the Amendment Acts 2007 and 2008 which sought to amend the Amendment Acts of 2001 and 2003 with retrospective effect after it became ultra vires are also ultra vires."

On an earlier occasion, none appeared for the petitioner and the matter was passed over. As per practice of this Court, no order-sheet was prepared.

It is seen that the matter is pending on the list for the last four weeks and has been called out on more than one occasion.

Today again, despite repeated calls and the link sent to the learned counsel, none has entered appearance.

Sri Vikash Kumar, learned S.C.No.XI appearing for the State, states that perhaps with the passage of time, the petition has become infructuous in the light of the decision rendered by Hon'ble Apex Court in **Jindal Stainless Ltd. & Anr. Vs. State of Haryana & Ors (2017) 12 SCC 1** .

We notice that no interim order is passed in the case.

As such, present petition is disposed of reserving liberty to the petitioner to take recourse to such remedies as are otherwise available in accordance with law and/or file a fresh petition on the same and subsequent cause of action if so required.

(Sanjay Karol, CJ)

(S. Kumar, J)

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