IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9988 of 2010

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M/S BHARTI TELE MEDIA LTD. Having Its Registered Office At Unitech World,Cyber Park,Tower,8th Floor, Sector 35, Gurgaon, Hary And One Of Its Offices At Uday Bhavan, Frazer Road, P.S. Kotwali, Town and District Patna Through Its Authorised Representative,Anand Kumar Rai,S/O Shri V.B. Rai, R/O 7th Floor,Anand Vihar Building, Boring Canal Road, P.S. Buddha Colony,District- Patna.

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR Vikash Bhavan,Bailey Road, Patna.
2. The Dy. Commissioner Of Commercial Taxes, Patliputra Circle, Patliputra,Patna.
3. The Assistant Commissioner Of Commercial Taxes, Patliputra Circle, Patliputra,Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.S.D.Sanjay, Sr. Advocate
For the Respondent/s : Mr.Pawan Kumar, AC to AG

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 30-09-2020 Petitioner has prayed for the following relief(s):

> "(i) For a declaration that the provisions of the Bihar Entry Tax Act, 1993 to the extent it has sought to levy Entry-Tax on the goods imported from outside the Territory of India is ultravires to the provisions of the Constitution of India for want of legislative competence by the State Legislature, and also in view of the Judgement in the case of *Indian Oil Corporation* Ltd. *vs. State of Bihar & Ors.*

reported in 2007[1] PLJR 502 and also the Judgement of the Hon'ble Kerala High Court in the case of *FR William Fernandez vs. State of Kerala* & *Ors.* reported in 115 STC 591;

(ii) For a declaration that even after the amendment in the Act vide Bihar Act No.19/2006 dt.29.08.2006 even after creation of Development Fund, the Act has factually not become compensatory, and as such, liable to be declared ultravires;

(iii) For a declaration that the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein [Amendment & Validation] Act, 2008 [Act No-13/2008 dt. 15.04.2008] being enforced with retrospective effect from 29.8.2006 as *ultravires* to Articles 14, 19(1)(g), 246, 301 & 304 of the Constitution of India;

(iv) For quashing of the Notification-S O No.95 dt. 31.07.2008 issued u/s 3(1) of the Bihar Tax on Entries of Goods into the Local Areas for consumption, use or sale therein Act, 1993, and being enforced with retrospective effect from 01.04.2008, by which rates of entry tax have been fixed for the scheduled goods from 2% to 16% on their entry into local area for consumption, use or sale therein for the purported purpose of development of trade, commerce and industries in the State as effectively no compensatory benefit as per the test laid down by the Hon'ble Supreme Court has been provided to the Petitioner;

(v) For issuance of an appropriate writ(s), order(s) or direction(s) to the respondents for restraining them from making any demand of entry tax from the Petitioner in general and on the import of equipments from outside the territory of India in the local areas of the State of Bihar in particular; 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."

Sri S. D. Sanjay, learned Senior Advocate states that the matter stands remanded by Hon'ble the Supreme Court of India.

But the order is not on record. So also other documents.

Considering the factual matrix and the absence of material to support the same, we are of the considered view that it would be only appropriate that a comprehensive petition is filed placing on record not only the documents, but also the relevant statutes/decision rendered by different Courts, including the Hon'ble Supreme Court of India and its resultant effect.

Learned counsel for the parties are in agreement that petition can be disposed of reserving liberty to the petitioner to file a fresh petition on the same and subsequent cause of action, if required and desired. Alternatively, petitioner can also take recourse to such remedies as are otherwise available in accordance with law.

Ordered accordingly.

Liberty is granted.

Petition is disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

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