IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4990 of 2018

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Reckitt Benckiser (India) Private Limited a Company under the Companies Act 2013 having its registered office at 227, Okhla Industrial Area Phase III, New Delhi and a Depot at Simili Murarpur, Plot No. 541, Holding No. NH 173/172, Circle No. 227, NH-30, P.S. Didarganj, Patna-800009 through its Authorized Signatory Manish Kumar Sinha, Age-48, Son of Late Shri. Narendra Prasad Resident of C-3, Tribhuwan Bhagwati Complex Nawal Kishor Road Kadam Kuan, Police Station -Kadam Kuan, District- Patna, at present working as Area Sales manager, patna with the petitioner Company.

... ... Petitioner/s

Versus

1. The State of Bihar thorough the Principal Secretary-cum-commissioner of Commercial Taxes, Vikash Bhawan, Balley road, Patna.
2. The Joint Commissioner of Commercial Taxes (Appeals), Central Division, Patna.
3. The Assistant Commissioner, Commercial Taxes, Special Zone, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anand Kumar Ojha
For the Respondent/s	:	Mr.Vikash Kumar- Sc11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 27-02-2020 Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner prayed for the following reliefs:-

(i) For quashing the Notices of demand dated 08.03.2018 received on 09.03.2018 for Assessment Year 2013-14, demanding an amount of Rs. 1,77,05,324 and notices of demand dated 09.03.2018 received on 13.03.2018 for the assessment year 2014-15 demanding an amount of Rs. 2,03,94,216/- in purported exercise of powers under Section 47 of the Bihar Value Added Tax Act, 2005 by which the Respondent No.3 has directed the Petitioner to make payment in the Government Treasury, during the pendency of the statutory Appeals filed by the Petitioner(with Respondent no.2) agaisnt the Assessment Orders of the years 2013-14 and 2014-15, thereby rendering the Appeal as well as the stay application infructuous. On receipt of the Impugned Notices of Demand, the Petitioner. Prepared a detailed response and met the Respondent No. 2 on 12.03.2018. the Respondent No. 2 did not take the response from the petitioner and orally informed the petitioner that if they agree to deposit 40% of the disputed demand, the Notices of Demand would be kept in abeyance. The Respondent No. 2 further informed the petitioner that if they want reduction, they can meet the Respondent No. 3 Commissioner. The petitioner met the Commissioner on 12.03.2018 and was informed that if the petitioner agrees to deposit 30% of the entire disputed demand, he would advised the Respondent No. 2 to grant stay of the Notice of Demand. The petitioner submitted that based on the revised assessment order issued, an amount of Rs. 1,86,26,335/- in respect of the previous assessment years i.e. 2011-12 and 2012-13 is to be refunded by the Department and the same may be adjusted. The petitioner was informed that the refund amount cannot be adjusted as the same is an independent issue. In substance, the Respondents have made the statutory appeal process farcical by delaying hearing of stay application/appeal and in the meantime, seeking recovery of the entire disputed tax. Further, amounts due from the department are not refunded, on the ground that they have to fulfill their target for tax collection. In this manner, it would be impossible for assesses to conduct business, in the State of Bihar. It is also relevant to submit in this context that the Petitioner had diligently participated in the appeal proceedings before Respondent No.2 and had appeared on several dates. On the last date of hearing the Appeal was adjourned for further hearing on 20.03.2018. Also, the Respondent No.2 had informed the Petitioner that the Appeal would be disposed on merits; hence there is no need to consider the stay application separately. The impugned notices of demand are wholly arbitrary, illegal and inequitable, violative of the provisions of the Bihar VAT Act, and for any other relief(s) for which the petitioner may legally be fund entitled to in the facts and circumstances of the present case; and

(ii) For directing the Respondent No.3 not to take any coercive steps till such time the appeals are heard and finally disposed of by the Respondent No.2

It is submitted on behalf of the petitioner that the present petition has become infructuous, for the grievance of the petitioner stands partly redressed for the authorities have now taken action and the appeal assailing the demand, subject matter of the present petition, stands heard and part relief granted.

The petition stands dismissed as having become infructuous.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv/-

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