IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10131 of 2005

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M/s. Babul Smokeless Fuel Industries Pvt. Ltd. a company incorporated under the Indian Companies Act, 1956, having its registered office at Balbhadrapur, P.S. - Laheriasarai, Distt. - Darbhanga through its Managing Director Awadhesh Kr. Choudhary s/o Sri K.K. Choudhary, resident of Moh. - Balbhadrapur, P.S. - Laheriasarai, Distt. - Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes Department, Government of Bihar, Patna
2. The Assistant Commissioner of Commercial Taxes, Madhubani Circle, Madhubani.
3. The Commercial Taxes Officer, Madhubani Circle, Madhubani.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Kishore Pd, Advocate
	;	Mr. Tej Bahadur Roy, 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 JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-08-2020

Petitioner has prayed for the following relief(s):-

> "(i) For issuance of appropriate writ/writs holding that provisions of section 94(2)(c) and 96(3)(b) of the Bihar Value Added Tax Ordinance, 2005 are ultra virus to the Constitution of India to the extent, it takes away the vested right of the petitioner to avail the benefit of exemption from payment of sales tax on purchase of raw material and is also against the provisions of Constitution of India.
> (ii) To issue writ in the nature of writ of mandamus directing the respondents authorities to issue necessary statutory forms i.e. Form (ga) to the petitioner in order to avail the benefit of exemption granted to the petitioner from payment Sales tax on purchase of raw materials in terms of

notification No. 478 dated 22.12.1995 as also in terms of the Industrial Incentive Policy 1995.
(iii) To issue appropriate writ/writs holding that the provisions of the Bihar Value Added Tax Ordinance 2005 will not take a way vested right of the petitioner to avail the benefit of exemption from payment of Sales Tax on purchase of raw material as have been held by this Hon'ble Court in the case of the petitioner earlier as the provisions of the Bihar Value Added Tax Ordinance 2005 will not be made applicable in the State of Jharkhand from where the petitioner has to purchase its raw material and even the Value Added Tax has not been adopted by the State of Jharkhand.
(iv) To grant any other relief or reliefs to which the petitioner is found entitled to in the facts and under the circumstances of the case."

Learned counsel for the petitioner fairly concedes that with the passage of time, present petition has become infructuous inasmuch as there is change with respect to the position of law.

However, it is pointed out that with the enforcement of the new Enactment/Policy, petitioner alone stands discriminated inasmuch as the benefit of exemption from payment of tax stands conferred to twenty two Industrial Units and only petitioner has been left out.

This issue, in our considered view, can be agitated by the petitioner first with the appropriate authority and thereafter before the appropriate forum in accordance with law.

Liberty, as prayed for, is granted for such purpose.

We only hope and expect that as and when petitioner as also similarly situated person(s) approach the respondent authorities venting out their grievances of discrimination with regard to conferment of benefits under the relevant Statute/Policy, the same shall be considered and decided in accordance with law expeditiously and preferably within a period of three months thereafter.

Petition stands disposed of in the above terms.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

B.Kr./-

AFR/NAFR	
CAV DATE	
Uploading Date	31.08.2020
Transmission Date	