IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6678 of 2005

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Opel Paints & Chemicals Pvt. Ltd., a Company incorporated under the provisions of the Companies Act, 1956, having its Factory situated at 44B, Ashok path, Phase 1, Industrial Area, Hajipur (Vaishali) through one of its Directors, Manoj Kumar, S/o Shri Motilal Prasad, Resident of 155, Bhagwat Nagar, Naya Tola, P.S. Kumharar, District Patna- 800020.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna
2. The Secretary-cum-Commissioner of Commercial Taxes, Bihar, Vikash Bhawan, Bailey Road, Patna
3. The Secretary, Department of Industries, Government of Bihar, Patna, Vikash Bhawan, Bailey Road, Patna
4. The Joint Commissioner of Commercial Taxes (Admn.), Tirhut Division, Muzaffarpur
5. The Assistant Commissioner of Commercial Taxes, Hajipur Circle, Hajipur (Vaishali)

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.S.D.Sanjay, Sr. 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)

10 19-08-2020 Petitioner has prayed for the following relief(s):

(i) For a declaration that the provisions of Bihar Value Added Tax Ordinance, 2005 cannot nullify & take away the vested rights accrued to the Petitioners with retrospective effect (before expiry of the period/Quantum) for exemption from payment of Sales-tax on sale of Finished Products under the Notification- S.O. No.: 479 dt. 22.12.1995 issued under the Industrial Policy, 1995 as such provision will be *ultra vires* the provisions of the Constitution of India;

For a declaration that the provision of the Bihar Value Added Tax Ordinance, 2005 to the extent it denies the benefit to the Industrial Units granted exemption in exercise of statutory power by the State Government to that extent, it will not be applicable in relation to Industrial Units enjoying the benefits promised by the State Government for the un-availed period;

(iii) For a declaration that Section 96(3)(b) of the Bihar Value Added Tax Ordinance, 2005 to the extent it denied the exemption from payment of Sales-tax on sale of Finished Products, the un-availed remaining period/quantum is arbitrary, and cannot sustain in the eyes of law arbitrary & discriminatory;

(iv) For a declaration that Section 94 of the Bihar Value Added Tax Ordinance, 2005 to the extent it repeals the rights & privileges acquired & accrued on the basis of the Bihar Finance Act, 1981, Notification issued thereunder and granted under the Industrial Policy Resolution as being arbitrary, discriminatory and opposed to the doctrine of promissory estoppel;

(v) For a declaration to read down the provisions of the Bihar Value Added Tax Ordinance, 2005 and to allow the Petitioners to avail the benefit of exemption for the remaining period in terms of the Government Notification- S.O. No.: 479 dt. 22.12.1995.

(vi) For restraining the Respondents-Sales-tax Authorities from raising demand of tax on sale of Products of the Petitioners by the Dealers;

(vii) For a declaration that the so called alternative provided in Section 96(3)(b) of the Bihar Value Added Tax Rules, 2005 read with Rule 57 of the Bihar Value Added Tax Rules, 2005option for deferment from payment of tax is arbitrary & discriminatory; and for any other relief(s) for which the Petitioners may legally be found entitled to in the facts of the present case.”

Learned counsel for the petitioner does not want to press the present petition and seeks permission to withdraw the present petition, reserving liberty to file a fresh petition on the same and subsequent cause of action.

Prayer allowed.

The petition is dismissed as withdrawn with the liberty aforesaid.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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