IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14062 of 2009

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1. M/S Ruhi Enterprises, a Proprietorship Firm Having Its Place Of Business At Kurari G.T. Road, Karmnasa, P.S.- Durgawati, Kaimur, Bhabhua through its Proprietor, Gyanendra Kumar Singh, S/O Shri Shyam Bihari Singh, R/O Sukhdeo Nagar, Ratu Road, P.S.- Sukhdeo Nagar, Distt.- Ranchi
2. M/s Salasar Coal Services, a Proprietorship Firm Having Its Place Of Business At Kurari Karmnasa, P.S.- Durgawati, Distt.- Kaimur At Bhabhua through its Proprietor, Brij Mohan Poddar, S/O Late Moti Lal Poddar, R/O C/O Rajasthan Tea Co., Upper Bazar, P.S.- Kotwali, Town and Distt.- Ranchi
3. M/s Salasar Fuel Industries, a Proprietorship Firm Having Its Place Of Business At Kurari Karmnasa, P.S.- Durgawati, Distt.- Kaimur At Bhabhua Through Its Proprietor, Kailash Chandra Kejriwal, S/O Shri Murlidhar Kejriwal, R/O Lalpur, P.S.- Lalpur, Distt.- Ranchi
4. M/s Jagdish Industries a Proprietorship Firm Having Its Place Of Business At Kurari Karmnasa, P.S.- Durgawati, Distt.- Bhabhua through its Prop. Sunil Kumar Kejriwal, S/O Shri Chiranji Lal Kejrawal, R/O Lalpur, P.S.- Lalpur, Distt.- Ranchi

... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Vikas Bhavan, Bailey Road, Patna
2. The Principal Secretary-Cum-Commissioner of Commercial Taxes Vikas Bhavan, Bailey Road, Patna
3. The Assistant Commissioner of Commercial Taxes Bhabhua Circle, Bhabhua

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.D.Sanjay, Advocate,
		Mr. Sushila Agrawal, Advocate
		Mr. Gautam Kejriwal, 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 : 17-08-2020

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

> "(i) For issuance of mandamus directing the Respondents to refund the entire amount of Entry Tax paid by the Petitioners against the import of raw materials from outside the State of Bihar in view of the exemption available to the Petitioners unit in terms of the Notification

bearing No. S.O. 478 and 479 both dt. 22.12.1995 issued by the Respondent-State for implementation of the Industrial Policy Resolution, 1995 ;

(ii) For issuance of a Writ in the nature of Mandamus directing the Respondents to refrain from charging Entry Tax on purchase of raw materials from outside the State of Bihar and also for restraining the Respondents from taking measures for recovery of such levy of entry tax in the State of Bihar ;

(iii) For issuance of a writ in the nature of a declaration that the Petitioners are not liable for imposition of entry tax against the purchases of raw materials made by the Petitioners from outside the State of Bihar in terms of the judgment dated 9.1.2007 passed by the Division Bench of this Hon'ble Court in the case of Indian Oil Corporation Ltd. vs. State of Bihjar & Ors. Reported in 2007[1] PLJR 502 whereby the Bihar Tax on Entry of Goods into Local Areas for Sale, Consumption and Use Therein Act, 1993 has been held to be ultra vires to the extent to the amendment in the Parent Act made in the year, 2001, 2003 etc.;

(iv) For issuance of a writ in the nature of declaration that the Petitioners having paid the Entry Tax on purchase of raw materials from outside the State of Bihar under the Statutory provisions of Entry Tax Act which were ultra vires the constitutional provisions is entitled to refund of the entire amount of Entry Tax already paid along with statutory interest ;

(v) For issuance of a writ in the nature of declaration that the Petitioners being an exempted unit under S.O. 478 and 479 dated 22.12.1995 is entitled to benefit of exemption even after bifurcation of state of Bihar and Jharkhand in terms of judgment of Hon'ble Supreme Court in the matter of C.C.T., Jharkhand vs. Swarnarekha Coke & Coal Pvt. Ltd. And others, 2004(3) PLJR 146 whereby it has been held that the territory of Bihar and Jharkhand are one and same for the purpose of benefit of exemption for payment of Entry Tax on purchase of sale of raw materials under the Industrial Policy Resolution, 1995;

(vi) For a declaration that the Petitioners are entitled to exemption Entry Tax in view of the Judgement of the Hon'ble Apex Court in the case of Associated Cement Co. Ltd. vs. State of Bihar & Ors. Reported in [2004] 7 SCC 642 ; and for any other relief[s] for which the Petitioners may legally be found entitled to in the facts and circumstances of the present case".

Shri Vikash Kumar, learned Standing Counsel No. XI states that the issue raised in the present petition is squarely covered vide judgment passed in the case of Jindal Stainless Ltd.& Anr vs State Of Haryana & Ors, (2017) 12 SCC 1.

Shri S.D. Sanjay, learned senior counsel states that the petitioner be permitted to file a fresh petition, if so required and desired, with regard to any surviving grievance.

Liberty is granted.

Petition stands disposed of in the aforesaid terms. Interlocutory application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

B.Kr./-

(S. Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	24.08.2020
Transmission Date	