

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5653 of 2011

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Idea Cellular Infrastructure Services Limited, a company registered under the Companies Act having its registered office at Suman Tower, Plot No. 18, Sec. 11, Gandhi Nagar, Gujrat and Circle Office at 1st Floor, Sumitra Sadan, Boring Road, Patna through its authorised signatory Vipul Tripathi son of Sri Ram Lakhan Tripathi, resident of Flat No. 404, Taluka Apartment, Budha Colony, Boring Canal Road, P.S. Budha Colony, District-Patna .

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Finance, Government of Bihar, Patna.
2. The Commissioner, Commercial Tax Department, Government of Bihar, Patna.
3. The Deputy Commissioner, Commercial Tax Department, Patliputra Circle, 4th Floor, Pant Bhawan, Baily Road, Patna.
4. The Commercial Taxes Officer, Pataliputra Circle, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Respondent/s : Mr.Rajesh Singh, GP 16.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-12-2020

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

“(i) An appropriate writ/order/direction in the nature of certiorari for quashing the order and consequent notice of demand both dated 14/03/2011 (as contained in Annexure- 4 series) issued by the respondent no. 4 whereby & whereunder the liability of the petitioner company was assessed under Section 3 of the Bihar Electricity Duty Act, 1948 (herein after mentioned as the Act) and the petitioner company is asked to pay electricity duty amounting



to Rs. 2533459/- as being wholly without jurisdiction, illegal and violative of the provisions of the Industrial Incentive Policy-2006 may be issued.

ii) An appropriate writ or writs, direction or directions in respect of any other relief or reliefs for which the petitioner may be deemed entitled, may also be issued.”

It is not in dispute that the impugned action is based on the notification bearing SO No. 14 dated 4th March, 2005. It is also not in dispute that the validity of the said Notification, subject matter of adjudication of the present *lis*, was struck down by a co-ordinate Bench of this Court vide decision rendered in **Bihar Sugar Mills Association, a branch of India Sugar Mills Association, New Delhi & Ors. Vs. The State of Bihar & Ors; 2009(4) PLJR416.**

It is also not in dispute that assailing the same, the State preferred an Appeal before Hon’ble the Apex Court, bearing Civil Appeal No. 2570 of 2010, titled as **State of Bihar & Ors. vs. Bihar Sugar Mills & Ors.**, which, on account of certain intervening developments, was disposed of along with several other analogous cases in the following terms:

“All the civil appeals stand dismissed as having become infructuous and all the transferred cases are disposed of in the terms of the signed order.



Till further order is passed by the High Court, the interim order will continue.”

Undisputedly, the substratum of the present impugned action stands taken away, in view of subsequent notification issued by the State.

As such, we dispose of the present petition making the decision rendered in **Bihar Sugar Mills Association** (supra) binding the parties, reserving liberty to the State to initiate action in terms of the subsequent legislation.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	

