IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.329 of 2011

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M/s Bhola Stores, a Proprietary Concern having its place of business at Bara Bazar, P.O, P.S., Town & District- Katihar through its Proprietor, Dilip Kmar Agrawal, S/o Late Bhola Chandra Agrawal, Resident of Bara Bazar, P.O, P.S., Town & District- Katihar

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-Cum- Commissioner of Commercial Taxes, Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Assistant Commissioner of Commercial Taxes, Katihar Circle, Katihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate
Ms. Shushila Agrawal, Advocate
Mr. Akash Chaturvedi, 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)

12 09-09-2020 Petitioner has prayed for the following reliefs:-

i] For a declaration that the Commodities-Slack Wax & Paraffin Wax not being Scheduled Commodities could not have been subjected to Entry Tax under the Bihar Tax on Entry of Goods into Local Area for Consumption, Use or Sale Therein Act, 1993, and the respondent No. 2 had no jurisdiction to exercise power to levy Entry Tax on Slack Wax & Paraffin Was;

ii] For a declaration that since Slack Wax & Paraffin Wax are not scheduled commodities under the provisions of the Bihar Entry Tax Act, 1993, and therefore, the respondent No. 2 has no jurisdiction to compel the Petitioner to obtain Registration under

the Bihar Entry Tax Act, 1993;
iii] For a declaration that even if it is held that the Slack Wax & Paraffin Wax are covered by the Schedule of Bihar Entry Tax Act, 1993, even then any Notification prescribing Rate of Entry Tax on the Scheduled Goods in excess of the Rate of Bihar VAT is discriminatory, and as such, uneforceable, and liable to be quashed;
iv] For a declaration that the Rate of Entry Tax on Petroleum Products being 8% and Rate of Bihar VAT on the Entry-88 Schedule-III on Slack Wax & Paraffin Wax being 4%, a Dealer of such commodity is held to made liable for Entry Tax, and cannot be compelled to pay Entry Tax over & above 4% i.e. in excess of the rate of Bihar VAT;
v] For quashing the Order dated 30.10.2010 passed by the Respondent ACCT, Katihar Circle, Katihar by which instead of deciding his jurisdiction he has held that the Slack Wax & Paraffin Wax are undisputedly covered by the entry 'Petroleum Product' and raised a demand of tax & Penalty to the tune of Rs. 1,55,771/- each totaling Rs. 3,11,542/- for the period 2008-09 [1.07.2008 to 31.03.2009] by stating that the Petitioner has failed to take registration and pay entry tax and has also imposed penalty;
vi] For a direction to the Respondents that even if the product Slack Wax & Paraffin Wax is covered by the term petroleum product in the schedule it cannot be subjected to tax at the rate higher than the rate of Bihar VAT;
vii] For quashing the penalty which has been imposed equivalent to the amount of tax vide order

dt. 30.10.2010 by the Respondent Assistant Commissioner of Commercial Taxes;

viii] For a direction to adjust and set off the amount deposited by the Petitioner as Bihar VAT;

ix] For a declaration that in the Present Case that even if it is held that Slack Wax & Paraffin Wax are covered by the Entry- Petroleum Products still the Petitioner which has already paid Bihar VAT on its sale cannot be compelled to further make payment of Entry Tax; &

x] For restraining the respondents from pressurizing the Petitioner to make payment under the head, Entry Tax & Penalty Amount as the petitioner had already paid the amount for its entire transaction of sale under the Bihar VAT; and for any other relief(s) for which the petitioner may legally be found entitled to in the facts and circumstances of the present case."

Learned counsel for the petitioner seeks permission to withdraw the present petition.

Petition is disposed of as withdrawn.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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