IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9051 of 2011

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Vodafone Essar Spacetel Limited, a company incorporated under the provisions of Companies Act, 1956 having its registered office at C-48, Okhla Industrial Area, Phase-II, New Delhi-110020and Local Office At 4th Floor, Maharaja Kameshwar Complex, Frazer Road, Patna Through Its Authorized Signatory Mr. Ranjan Kumar S/O Sri V.N.Singh R/O Flat No. 205, Akota Apartment Doranda, Ranchi, Jharkhand.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Department Of Commercial Taxes, Govt. Of Bihar Patna
3. The Deputy Commissioner, Commercial Taxes Department, Pataliputra R/O Circle, 4th Floor, Pant Bhawan, Baily Road, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ratnakar Pandey, 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 : 09-12-2020

As prayed for by learned counsel for the petitioner, the name of the petitioner stands corrected/modified, be read as “Vodafone Spacetel Limited” in place of Vodafone Esssar Spacetel Limited.

Registry to make necessary correction in all the records of this case.

The petitioner has prayed for the following relief(s):-

" i) An appropriate writ/order/direction in the nature of prohibition prohibiting the respondent authorities from continuing with the present proceedings in pursuance of notice dated 27/12/2010 (as contained in Annexure- 1) issued by the respondent no. 2 Deputy Commissioner, Commercial Tax Dept., and inspection report dated 11/02/11 whereby & where under proceeding has been initiated to assess the liability of the petitioner company under Section 3 of the Bihar State Electricity Duty Act, 1948 (herein after mentioned as the Act) as being wholly without jurisdiction and illegal may be issued.

ii) An appropriate writ/ order/ direction in the nature of certiorari for quashing the proceeding and consequent notice dated 27/12/2010 (as contained in Annexure- 1) issued by the respondent no.2 Deputy Commissioner, Commercial Tax Dept., whereby & whereunder proceeding has been initiated to assess the liability of the petitioner company under Section 3 of the Bihar State Electricity Duty Act, 1948 (herein after mentioned as the Act) as being wholly without jurisdiction and illegal may be issued.

iii) An appropriate writ/ order / direction in the nature of Mandamus directing the respondents not to take any coercive step for realization of electricity duty under the provision of the Bihar Electricity Duty Act during the pendency of the present writ application.

iv) To any other relief or reliefs for which the petitioner is entitled."

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	