IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9733 of 2011

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Bharti Infratel Limited, A company Incorporated under the Companies Act, 1956 through its authorized representative/signatory Sri Pradeep Faujdas having its registered office at Bharti Crescent, Vasant Kunj, New Delhi and its Circle Office at 1sd and 3rd Floor Uma Complex, Fraser Road, P.S. Gandhi Maidan, Patna, Presently residing at, Jagat Amravati Apartment, Bailey Road, Patna

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-Cum-Principal Secretary, Commercial Taxes, Vikas Bhawan, Bailey Road, Patna- 800001
2. Commissioner of Commercial Tax, Patna, Bihar
3. Commercial Tax Officer Patliputra Circle, Patna

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Lakshmikumaran, Senior Advocate
Mr. Brisketu Sharan 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 ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

12 17-08-2020 Petitioner has prayed for issuance of writ, order or direction in the nature of appropriate writ including declaratory writ and the writ of mandamus:

1. declaring that the provisions of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein, Act 1993 & rules framed there under and the subsequent 2006 amendment are violative of Article 301 of the Constitution of India and not saved by Article 304 and;
2. declaring that the provisions of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein, Act 1993 & rules framed there under and the subsequent 2006 amendment are violative of Article 14, 19 (1)(g) & Article 286 of the Constitution of India and;
3. directing the respondent to refund the entire amount of tax collected along with interest under The Bihar

Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein, Act 1993 & rules framed thereunder and;

4. any other order/orders, direction/directions as this Court may deem fit and proper in the facts and circumstances of the case."

Shri Lakshmikumaran, learned Senior counsel appearing for the petitioner, fairly states that save and except for one issue, all other issues and questions raised in the present petition, now stand settled by Hon'ble the Apex Court vide judgment passed in the case of **Jindal Stainless Ltd.& Anr vs State Of Haryana & Ors,** reported in (2017) 12 SCC 1.

Also petitioner herein has already taken recourse to the statutory remedies under the provisions of the Bihar Settlement of Taxation Disputes Act, 2019. However, it is alleged that the appropriate authority has passed an order adverse to the petitioner, which needs to be independently assailed by way of a separate writ petition. Further, one of the surviving issues in the present petition be allowed to be raised in the fresh writ petition, for which liberty be granted.

Liberty, as prayed for, is granted.

At this stage, Shri Vikash Kumar, learned Standing Counsel No. XI appearing for the State, informs that perhaps the writ-petitioner has not complied with the interim order dated 16.08.2011, inasmuch as, there may be a short fall in the deposit of the amount.

Responding to the said statement Shri Lakshmi Kumar, learned counsel for the petitioner, clarifies that not only the said order has been complied with in letter and spirit, but in fact the writ-petitioner has deposited amount, far in excess what was actually due and payable.

Statement is accepted and taken on record.

As such, we need not pass any further order with regard to the payment of any amount.

Petition stands disposed of reserving liberty to the petitioner to raise the surviving grievance, if any and so required, in the subsequent petition, which the petitioner intends to file in the near future.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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