IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6848 of 2010

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1. M/S BHARAT PETROLEUM CORPN.LTD, company incorporated under the Companies Act, having its Registered office at Bharat Bhavan, 4 & 6, Curimbhoy Road, Ballard Estate, Mumbai-400 001, and One Of Its Branches Situated At 4th Floor, Ashiana Chamber, Exhibition Road, P.S- Gandhi Maidan, District-Patna Through Its Manager-Finance Ss,Er,Debabrata Das,S/O Late N.C. Das, Resident Of Garia, P.S.- Jadavpur, Kolkata District-24 Parganas South,Kolkata.
2. M/S Hindustan Petroleum Corporation Ltd., A Company Incorporated Under The Companies Act,Having Its Null Jamshedji Tata Road,Mumbai And Regional Office At Sixth Floor, Lok Nayak Jay Prakash Bhawan, New Dak Bunglow Road,P.S-Kotwali, District- Patna Through Its Manager-Finance,N.S. Jaikumar, S/O Late N.V.S. Krishnan , R/O 2/288, Vikas Khand, Gomti Nagar, District- Lucknow.

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR, Old Secretariat, Patna
2. The Prinicipal Secretary Cum Commissioner Of Commercial Taxes, Bihar, Vikash Bhawan, Bailey Road, Patna.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.D.V.Pathy, Advocate
For the Respondent/s	:	Mr.Vikash Kumar, SC 11

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 22-09-2020 Petitioner has prayed for the following relief(s):

"(i) For a declaration that Section 16(3)(f) of the Bihar VAT Act, 2005 is violative of the Articles 14 & 19(1)(g) and also Article 265 of the Constitution of India, and are ultra vires for arbitrarily providing double taxation on the same commodity i.e. Kerosene Oil & LPG (domestic) without any authority of law;

(ii) For a declaration that Section 16(3)(f) of the Bihar VAT Act, 2005 is unconstitutional being ultra vires for delegating essential legislative function even to the extent of providing for complete denial/negation of Input Tax Credit;

(iii) For a declaration that the Notification-SO No. 260 dated 19.11.2009 by which the State Govt. has completely denied the input tax credit in respect sale of K.Oil and L.P.G (Domestic) by one Oil Marketing Company after purchase from another Oil Marketing Company is ultra virus the provision of Constitution being arbitrary and discriminatory;&

(iv) For a direction to grant/allow the Input Tax Credit in respect of the input sold at a price fixed under price mechanism of the state at least to the extent of output Tax liability of that dealer; and for any other reliefs for which the Petitioners may be found entitled to in the facts & circumstances of the present case.”

After the matter was heard for some time, Shri D.V. Pathy, learned counsel for the petitioners, fairly states that petitioner be permitted to withdraw the present petition reserving liberty to file a fresh petition on the same and subsequent cause of action, if so required and desired.

Equally, petitioner be permitted to take recourse to such remedy as is otherwise available in accordance with law.

We notice that no interim order stands passed. Let fresh petition be filed within a period of three months from today.

Also, liberty is reserved to make a mention for early hearing of the matter.

Petition is disposed with the liberty aforesaid.

(Sanjay Karol, CJ)

(S. Kumar, J)

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