IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1359 of 2010

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M/S KHETAN PLAST INDUSTRIES, a Unit of M/s Khetan Associates Holding Pvt. Ltd. Having Its Head Office Situated At Krishna Chowk, Station Road, P.S.- Kotwali, Distt. Patna And Its Unit Situated At Ramdhani Road, Simli, Patna City, Distt.- Patna Through Its Authorized Signatory, Ram Lal Khetan, S/O Moti Lal Khetan, R/O Khetan Bhawan, Patliputra Path, Rajendra Nagar, P.S.- Kadamkuan, Distt.- Patna

... ... Petitioner/s

Versus

1. THE STATE OF BIHARthrough the Chief Secretary, Old Secretariat, Bailey Road, Patna
2. The Principal Secretary-Cum-Industrial Development Commissioner Vikash Bhavan, Bailey Road, Patna
3. The Principal Secretary-Cum-Commissioner Of Commercial Taxes Bihar, Patna
4. The Dy. Commissioner Of Commercial Taxes Patna City East Circle, Patna
5. The Commercial Taxes Officer Patna City East Circle, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.S.D.Sanjay, Sr. Advocate
Ms. Sushila Agrawal, Advocate
Mr. Gautam Kejriwal, Advocate

For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-08-2020

Petitioner has prayed for the following relief(s):

"For a declaration that the Respondent-State Government in the garb of the provisions of the Bihar VAT Act, 2005 cannot resile from its promise made under the Industrial Policy Resolution, 1995 for granting &continuing with the exemption from payment of Sales-tax on purchase of Raw Materials & on sale of Finished Products to the extent in respect of quantum/amount made in the Industrial Policy, and cannot withdraw the same before completion of the period for availing the amount of exemption;

(ii) For a direction to the Respondents to fulfill its solemn promise made by the Industrial Policy Resolution, 1995 in any other form which suits to the Respondent-State as they are allowing the benefit of exemption promised to the New Industrial Units by the Industrial Policy, 2006 without contravening any provision of any Act including the Bihar VAT Act, 2005;

(iii) For a direction to the Respondents to take appropriate measure in terms of the Industrial Policy, 2006 wherein the Respondent State Government has again made similar promise to attract the Entrepreneurs for granting exemption from payment of Sales-tax on sale of Finished Products by providing for refund of the amount through the

Industries Department;

[iv] For a declaration that the so called alternative provided in Section 96[3[b] of the Bihar Value Added Tax Act, 2005 read with Rule 57 of the Bihar Value Added Tax Rules, 2005 ie. option for deferment from payment of tax is arbitrary & discriminatory;

[v] For restraining the Respondents-Sales-tax Authorities from raising demand of tax on sale of Products of the Petitioner by the Dealers for exemption period covered by the Exemption Certificate;

[vi] For a declaration in alternative that the provisions of Bihar Value Added Tax Act, 2005 vide Act No. 27 of 2005 published in the official gazette on 23.6.2005, cannot nullify & take away the vested rights accrued to the Petitioner with retrospective effect [before expiry of the period/Quantum] for exemption from payment of Sales-tax on sale of Finished Products under the Notification- SONo.:479 dt. 22.12.1995 issued under the Industrial Policy, 1995 as such provision will be ultra vires the provisions of the Constitution of India;

[vii] For a declaration that the provision of the Bihar Value Added Tax Act, 2005 to the extent it denies the benefit to the Industrial Units granted exemption in exercise of statutory power by the State Government to that extent, it will not be applicable in relation to Industrial Units enjoying the benefits promised by the State Government for the un-availed

period ;

[viii] For a declaration that Section 96[3][b] of the Bihar Value Added Tax Act, 2005 to the extent it denied the exemption from payment of Sales-tax on sale of Finished Products, the un-availed remaining period/quantum is arbitrary, and cannot sustain in the eyes of law arbitrary & discriminatory;

[ix] For a declaration that Section 94 of the Bihar Value Added Tax Act, 2005 to the extent it repeals the rights & privileges acquired & accrued on the basis of the Bihar Finance Act, 1981, Notification issued there under and granted under the Industrial Policy Resolution as being arbitrary, discriminatory and opposed to the doctrine of promissory estoppel; &

[x] For a declaration to read down the provisions of the Bihar Value Added Tax Act, 2005 and to allow the Petitioner to avail the benefit of exemption for the remaining period in terms of the Government Notification-SO No.: 479 dt. 22.12.1995; and for any other relief[s] for which the Petitioner may legally be found entitled to in the facts of the present case."

Learned counsel for the petitioner seeks permission to withdraw the present petition as the same has become infructuous.

Permission is granted.

The present petition stands disposed of as withdrawn.

Interlocutory Application, if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	27.08.2020
Transmission Date	