IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16464 of 2010

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Jodhani Food Private Limited, a Private Limited Company incorporated under the Companies Act, having its office at Large Industrial Estate, Barari, P.S.- Barari, Distt.- Bhagalpur through Its Director Sanjeev Kumar Verma, S/O Shri Bibhuti Bhushan Prasad, R/O Bhikhanpur Gumti No.2, P.S.- Ishaq Chak, P.O.- G.P.O. Bhagalpur, Distt.- Bhagalpur

... ... Petitioner/s

Versus

1. The State of Bihar
2. Commissioner Of Commercial Taxes Having Its Office At Vikas Bhawan, Bailey Road, Patna
3. Commercial Taxes Officer, Bhagalpur Circle, Bhagalpur

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy, 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)

6 02-12-2021 Petitioner has prayed for the following relief(s):-

"i) that the order dated 18.5.2010 passed by the respondent no. 3 (as contained in Annexure-3) be set aside and quashed.

ii) for a declaration that the notification no. SO 481 dated 22.12.1995 issued by the State Government in exercise of powers under section 8(5) of the Central Sales Tax Act continues to remain in force in absence of a notification to the contrary.

iii) for a declaration that the provisions of section 96(3)(b) of the VAT Act, 2005 is limited in scope of its application to the Bihar Value Added Tax Act and does not encroach upon the right to exemption in respect of inter state sale under the Central Sales Tax Act.

iv) for a declaration that the respondents working under the domain and control of the State Government are bound by the circulars and notifications granting exemption in respect of sale of goods in course of inter-state trade and commerce.

v) for a declaration that the recovery of tax on sale in course of inter-state trade and commerce in gross contravention to the notification, the industrial policy and without a corresponding amendment in the Central Sales Tax is arbitrary and is violative of Article 14 and 19(1)(g) and 265 of the Constitution of India.

vi) for a declaration that the State Government cannot resile from its promise of exemption granted pursuant to the notification issued under the Central Sales Tax Act in terms of the industrial policy in respect of inter-state sale on the principle of promissory estoppel.

vii) for any other relief to which the petitioner is otherwise found entitled to."

Shri Vikash Kumar, learned Standing Counsel No. 11 states that the issue, subject matter of the present petition, already stands decided by a co-ordinate Bench of this Court vide judgment dated 16.08.2016 passed in CWJC No. 12142 of 2015, titled as **M/s Hebe Ispat Vs. The State of Bihar & Ors**.

Shri D.V.Pathy, learned counsel for the petitioner, while not agreeing with such submission, states that perhaps, with the passage of time, the present petition has become infructuous inasmuch as the petitioner has preferred an appeal, which stood dismissed and the petitioner be granted liberty to take recourse to such other remedies as are otherwise available in accordance with law.

As such, as prayed for by Shri D.V.Pathy, present petition stands disposed of with the liberty aforesaid.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

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