IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5768 of 2011

Bharat Business Channel Limited, Saryar Villa, 91, Montessari School Lane, Opp. Karlo Automobiles, Boring Road, Patna-80001 through its authorised signatory Nirmal Sharma.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Commissioner-cum-Secretary, Finance Department, Government, Patna.
3. The Commissioner Commercial Taxes, Commercial Taxes Department, Patna, Bihar.
4. The Assistant Commissioner of Commercial Taxes, Patliputra Circle, Patna, Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mrs. Archana Sinha, Advocate
Mr. Sandeep Kumar, Advocate
Mr. Alok Kumar, 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)

11 02-12-2021 Petitioner has prayed for the following relief(s):-

i) To issue an appropriate writ/order/direction in the nature of Mandamus declaring the provisions of Section 2(ee) and Section 3AAA of Bihar Entertainment Tax Act, 1948 incorporated vide Bihar Finance Act, 2007 (Act 8 of 2007) in bringing the Direct to Home Service Providers within the purview of the Act and seeking to impose Entertainment Tax on Direct to Home Broadcasting Service being ultra vires Article 246(1) read with Entry 31 and Entry-92C List-I of the 7th Schedule of the Constitution of India and thus beyond the Legislative competence of the State Legislature.

ii) To issue an appropriate writ/order/direction in the nature of Mandamus declaring the provisions of rule 19A(2) of Bihar Entertainment Tax Rules, 1984 incorporated vide Amendment dated 19th January, 2011 imposing tax @15% on the gross collection by the Petitioner whether for rendering the DTH broadcasting services or for the supply of the goods being ultra vires Article 246(1) read with Entry 31 and Entry-92C List-I of the 7th Schedule of the Constitution of India and thus beyond the Legislative competence of the State Legislature.

iii) To issue appropriate writ/order/direction in the form of mandamus declaring the tax imposed under section 3AAA is discriminatory and unreasonable vis-à-vis the imposition of tax under Section 3AA of the Bihar Entertainment Tax Act 1948 being in violation of right to equality and fundamental right to carry on lawful trade and business and also in violation of Article 265 of the Constitution of India.

vii) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

It is brought to our notice that the issue, subject matter of the present petition, is pending consideration before Hon'ble the Apex Court in Transfer Petition (Civil) Nos. 1191-1202 of 2014, titled as ***Tata Sky Ltd. Vs. State of Bihar & Ors.***

After the matter was heard for some time, learned counsel for the parties are in agreement that the petition can be disposed of in the following terms:-

(a) Parties shall be bound by the decisions rendered by Hon'ble the Apex Court in ***Tata Sky Ltd.*** (supra).

(b) Liberty reserved to the parties to take recourse to such other remedies, as are otherwise available in accordance with law, should the need so arise subsequently.

(c) This they can do under the same and subsequent cause of action.

Petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

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