IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13224 of 2021

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1. Sona Biscuits Limited having its principal place of business at D/3-8, Industrial Area Hajipur, Hajipur, Vaishali, Bihar 844101
2. Ashok Kumar Agarwal, S/o Jhabarmal Agrawal, Director of Sona Biscuits Limited, having its principal place of business at D/3-8, Industrial Area Hajipur, Hajipur, Vaishali, Bihar 844101

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, Government of India, having its office at Central Secretariat, North Block, New Delhi-110001.
2. The State of Bihar through its Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Mayuri, Advocate Mr. Kamleshwar Pandey, Advocate Mr. Ankit Kanodia, Advocate
For the Respondent/s	:	Mr.Dr. Krishna Nandan Singh (ASG) Mr. Anshuman Singh, Sr. CGC 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)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 21-08-2021 Petitioner has prayed for the following relief(s):

"(i) For issuance of a direction, order or writ, including a writ in the nature of Mandamus to hold and declare sub-rule 4 in Rule 36 of the CGST Rules/BGST Rules to be unconstitutional and against the Scheme of the CGST Act/BGST Act.

(ii) Issuance of a direction, order or writ, including a writ in the nature of Mandamus to hold and declare Section 16(2)(c) of the CGST Act/ BGST Act to be unconstitutional and against the scheme of CGST Act/BGST Act.

(iii) Issuance of a direction, order or writ, including a writ in the nature of Mandamus to alternatively read down Section-16(2)(c) of the CGST Act/ BGST Act if the constitutional validity of the impugned provision is upheld, by holding and declaring that ITC can be denied only if the buyer of goods or services has colluded with the supplier of the goods or services to defraud the revenue and where purchases are in the nature of sham transactions.

(iv) Issuance of a direction, order or writ, including a writ in the nature of Mandamus to direct that Input Tax Credit cannot be denied for cancellation of certificate of registration and non-existence of inward suppliers who have made supplies to the Petitioner’s suppliers unless there is an evidence to establish that the petitioner has acted in collusion with the suppliers to defraud the revenue.

(v) Issuance of a direction, order or writ, including a writ in the nature of Mandamus to award costs and other incidental expenses.

(vi) Any other relief/reliefs that the petitioners may be found to be entitled to in the facts and circumstances of the present case.”

Learned counsel for the petitioner seeks permission to withdraw the petition reserving liberty to file a proper petition with full particulars on the same and subsequent cause of action.

Prayer allowed.

As and when such petition is filed, the same shall be listed on priority basis.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS/-

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