IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10844 of 2019

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United Breweries Limited, a Company registered under the provisions of the Companies Act, 1956 having its registered office at U.B. Towers, U.B. City No.24, Vittal Mallya Road, Bangalore-560001 and factory at Plot No. A 1, Industrial Area, Kopakala, P.S. Naubatpur, Dist.-Patna through its Authorized Signatory Shri Ajay Kumar Singh, Male, aged about 53 years son of Late Sarbdeo Singh, resident of Shail Bhawan, R.M.S. Colony, Kankarbagh, P.S. Kankarbagh, Dist.-Patna

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, State Taxes, Bihar, Patna
2. The Joint Commissioner, State Tax, Patliputra Circle, Patna
3. The Additional Commissioner (Appeal), State Tax, Central Division,Patna
4. The Assistant Commissioner, State Tax,Patliputra Circle,Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
For the Respondent/s : Mr. Vikash Kumar (Sc11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-03-2021

Petitioner has prayed for following reliefs:-

> (I) Quashing the Assessment order dated 19.4.2018 (VAT & ET) as also the Appellate order, dated 20.11.2018, passed by the Assistant Commissioner – Commercial Tax, Patliputra Circle, Patna and the Additional Commissioner (Appeal), Central Division, Patna, in Appeal Case No.ST/PR-55 and 58/2018-19, by which the petitioner has been assessed for payment of VAT of Rs.1,16,54,659.00 and Entry Tax of Rs.53,62,461.00, for the assessment year 2015-16 respectively and the appeal preferred by the petitioner has been rejected, on the ground of maintainability.

(ii) To quash the consequential demand notices, both dated 19.4.2018, by which a demand of VAT and Entry Tax of Rs.1,16,54,659/- and Rs.53,62,461/- respectively, has been raised against the petitioner.

(iii) To direct the respondent authorities to reassess the tax liability of the petitioner in view of the changed circumstances, under which VAT of Rs.5,86,71,871.00 has been found to be paid in excess by the petitioner and refundable to the petitioner , during the financial year 2015-16, accordingly recalculate the tax liability of the petitioner and upon adjusting the excess tax paid during the financial year 2014-15 and 2015-16;

(iv) To pass such other order (orders) as your Lordship may deem fit and proper in the facts and circumstance of the present case."

Having heard learned counsel for the parties, in our considered view, the issue, limited with regard to payment of interest, can be best resolved by the Assessing Officer who passed the impugned order dated 19.04.2018, (titled as M/s United Breweries Limited), as contained in Annexure 2 and order dated 06.03.2019 (titled as M/s United Breweries Limited), as contained in Annexure 5, for the quantum of interest payable, if any, in the teeth of the findings of the petitioner having paid the amount in excess, needs to be considered.

As such, as jointly prayed for, without going into the merits, we direct the parties to appear before the Assessing

Officer on 12.04.2021 at 10:30 A.M. for the purposes of determination of the amount of interest, if any, on the amounts due and payable by the petitioner, be it the liability of tax or penalty, under the Bihar Value Added Tax Act, 2005 (hereinafter referred to as "the Act").

Needles to add, in the event of the Officer finding the petitioner liable for payment of interest, it shall be open to assail the same before the appropriate authority.

Equally, if the Officer finds the petitioner to have deposited the amount in excess, petitioner would be liable to refund thereof, as per provisions of the Act.

Writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.03.2021
Transmission Date	NA