IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6235 of 2014

Chitwan Blenders and Bottlers Pvt. Ltd. Son Of Late Onkar Nath Srivastava Resident Of Khagaul Road, Danapur, P.S- Danapur In The District Of Patna Bihar

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Commercial Taxes, Bihar, Patna.
3. The Deputy Commissioner, Commercial Taxes, Danapur, Circle, Danapur, Patna.
4. The Bihar State Beverage Corporation Limited, A Government Of Bihar Undertaking, Having Its Registe
5. The Managing Director, The Bihar State Beverage Corporation Limited, Having Its Registered Office A
6. The General Manager, Finance, The Bihar State Beverage Corporation Limited, Having Its Registered O

... ... Respondent/s

with

Civil Writ Jurisdiction Case No. 6248 of 2014

United Spirits Ltd. Having Its Registered Office At Ub Tower, 24, Vittal Mallya Road, Bangalore - 560001and Its Factory At Hathidah In The District Of Patna Bihar Through Its General Manager, Sales-Sri Chandrashekhar Singh Son Of Sri Kamal Prasad Singh Resident Of 101, Aa Complex, East Boring Canal Road, P.S. Budha Colony, Patna - 800001

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner , Commercial Taxes, Bihar, Patna
3. The Deputy Commissioner, Commercial Taxes, Barh Circle, Barh, District - Patna
4. The Bihar State Beverage Corporation Limitd, A Government Of Bihar Undertaking, Having Its Register
5. The Managing Director, The Bihar State Beverage Corporation Limited, Having Its Registered Office A
6. The General Manager, Finance, The Bihar State Beverage Corporation Limited, Having Its Registered O

... ... Respondent/s

==

Appearance :
(In Civil Writ Jurisdiction Case No. 6235 of 2014)
For the Petitioner/s : Mr.Satyabir Bharti, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC 11
For the Corporation : Mr. Vikas Kumar, Advocate
Mr. Girijesh Kumar, Advocate
(In Civil Writ Jurisdiction Case No. 6248 of 2014)
For the Petitioner/s : Mr.Satyabir Bharti, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC 11
For the Corporation : Mr. Vikas Kumar, Advocate
Mr. Girijesh Kumar, Advocate

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 02-12-2021 Petitioner in C.W.J.C. No. 6235 of 2014 has prayed for the following relief(s):-

> "(i) Quashing the notice of demand no. 180 dated 19.3.2014 (Annexure-3, Page 21) issued by the Deputy Commissioner, Commercial Taxes, Danapur Circle, Danapur by which invoking the special mode of recovery of tax provided for under section 47 of the VAT Act has directed the Respondent no. 5 (MD, BSBCL) to pay a sum of Rs. 40 Crores held on account of the petitioner against its advance tax liability of the year 2013-14;
>
> (ii) Quashing the notice of demand dated 20.3.2014 as contained in Process No. 01 (Annexure-5, Page 24) issued by the Deputy Commissioner of Commercial Taxes, Danapur Circle, Danapur issued in purported exercise of powers conferred under Section 3(7) of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as 'the VAT Act') by which the

petitioner has been directed to deposit the estimated tax of 11 Crores for the month of April, 2014 by 27.3.2014;

(iii) To restrain the Respondent no. 5 & 6 from complying with the aforesaid issued notice and such further notice if any issued under section 47 of the VAT Act for payment of the aforesaid sum as directed by the impugned notice dated 19.3.2014 and such other sum as may be directed by him;

(iv) To declare and hold that the respondent Commercial Taxes Authorities under the garb of recovering advance tax cannot resort to a procedure unauthorized by law and act on their whims and fancies;

(v) To direct the respondents to refund the amount so already recovered in pursuance to the aforesaid illegal notice issued under section 47 along with a penal interest @ 24% per annum;

(iv) Pass such other order/s as your lordships may deem fit and proper in the facts and circumstances of the present case. ”

Petitioner in C.W.J.C. No. 6248 of 2014 has prayed for the following relief(s):

“(i) Quashing the notice of demand dated 24.2.2014 (Annexure-2, Page 19) issued by the Deputy Commissioner of Commercial Taxes, Barh Circle, Barh issued in purported exercise of powers conferred under Section 3(7) of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as ‘the VAT Act’) read with Rule 7(1) of the Bihar Value Added Tax Rules, 2005 (hereinafter referred to as the “VAT Rules”) by which the petitioner has been directed to deposit the estimated tax of 24 Crores for the month of February, 2014 and Rs. 16 Crores for the Month of March, 2014 by 15.03.2014 and 25.3.2014 respectively;

(ii) Quashing the notice of demand no. 503 dated 18.3.2014 (Annexure- 4, Page 23) issued by the Deputy Commissioner, Commercial Taxes, Barh Circle, Barh by which invoking the special mode of recovery of tax provided for under section 47 of the VAT Act has directed the Respondent no. 5 (MD, BSBCL) to pay a sum of Rs. 16 Crores held on account of the petitioner;

(iii) To restrain the Respondent no. 5 & 6 from complying with the aforesaid issued notice and such further notice if any issued under section 47 of the VAT Act for payment of the aforesaid sum as directed by the impugned notice dated 18.3.2014 and such other sum as may be directed by him;

(iv) To declare and hold that the respondent Commercial Taxes Authorities under the garb of recovering advance tax cannot resort to a procedure unauthorized by law and act on their whims and fancies;

(v) To direct the respondents to refund the amount so already recovered in pursuance to the aforesaid illegal notice issued under section 47 along with a penal interest @ 24% per annum;

(iv) Pass such other order/s as your lordships may deem fit and proper in the facts and circumstances of the present case. ”

Learned counsel for the petitioners seeks permission to withdraw both the petitions for the reason that the grievances of the petitioners stand redressed.

Petitions are disposed of as having become infructuous.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

U			