IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6519 of 2019

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Molson Coors India Pvt. Ltd.

... ... Petitioner/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satyabir Bharti, Adv.
For the Respondent/s	:	Mr.Vikash Kumar, SC-11 Mr. Girijish Kumar, Adv.

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

Date : 28-06-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

> "(i) Issuance of a writ of mandamus or any other writ, order or direction, directing the Respondents, to refund the VAT amount of Rs. 1,17,41,040.73/- deposited in advance on destroyed/drained out and returned stocks of beer which could not be sold as on 05.04.2016 (date on which prohibition on sale and consumption of BEER was introduced in the State of Bihar);
>
> (ii) To direct the respondents to pay interest @ 18% per annum on the delayed refund of the VAT amount on destroyed/drained out and returned stocks of beer;

Mr. Vikash Kumar, learned counsel for the State, states that pending adjudication of the instant petition the appropriate authority has decided the issue of refund vide order dated 05.04.2019 (Page-187, Annexure-15), we notice that prior to the passing of the order petitioner could not file response to the show cause notice for reasons as stated in the petition and said order stands passed without hearing the petitioner. We also notice that the liability of Rs. 1.17 Crore has been fastened by the assessing authority on the petition.

Having heard learned counsel for the parties as also perused the record made available, we are of the considered view that this Court, notwithstanding the statutory remedy, is not precluded from interfering where, *ex facie*, we form an opinion that the order is bad in law. This we say so, for two reasons- (a) violation of principles of natural justice, i.e. Fair opportunity of hearing. No sufficient time was afforded to the petitioner to represent his case; (b) order passed *ex parte* in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order, *ex parte* in nature, passed in violation of the principles of natural justice, entails civil consequences. As such, on this short ground alone, we dispose of the present writ petition in the following mutually agreeable terms:

(a) We quash and set aside the impugned order dated 05.04.2019 passed by the Assistant Commissioner of State Tax;

(b) Petitioner undertakes to appear before the

Assessing Authority on 25.07.2022 at 10:30 A.M., if possible through digital mode;

(c) The Assessing Authority shall decide the case on merits after complying with the principles of natural justice;

(d) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(e) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(f) The Assessing Authority shall decide the case on merits expeditiously, preferably within a period of three months from the date of appearance of the petitioner;

(g) The Assessing Authority shall pass a speaking order, assigning reasons, copy whereof shall be supplied to the parties;

(h) Liberty reserved to the petitioner to challenge the order, if required and desired;

(i) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(j) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(k) We have not expressed any opinion on merits and all issues are left open;

(l) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

The instant petition sands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	