

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6889 of 2022

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M/s Zenith Corporation 5-A, Jain Nagar, Meerut- UP Pin- 25002 through its Proprietor, Kapil Maheshwari (Male), aged about 39 years, Son of Late J.L. Maheshwari, Resident of 221, New Premपुरi, Railway Road, Meerut, U.P., Pin- 250002.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Excise Commissioner, Excise and Prohibition Department, Government of Bihar, Patna.
4. The Assistant Excise Commissioner, Excise and Prohibition Department, Government of Bihar, Patna.
5. The District Magistrate, Sitamarhi.
6. The Additional District Magistrate, Sitamarhi.
7. The Superintendent of Police, Sitamarhi.
8. The Station Head Officer, P.S.- Sitamarhi.
9. The Excise Inspector, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shambhu Sharan Singh, Advocate
For the Respondent/s : Mr.Kumar Manish (Sc5)

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

Date : 10-05-2022

I. For issuance of appropriate writ(s) thereby commanding the respondents concerned to release the petitioner's 217 Nag of surgical items along with other items used in the Hospital for the patients like, Fabric Bundles, Gauze Than, Bandage Than, Pillow cover,

Mosquito net, Blanket, Bed sheets and Bed Cover, which have been seized by the Excise Inspector, Sitamarhi, in connection with Case No. C 278/2022 (State Versus Zulfikar) pending before the Special Judge, Exclusive Excise Court-2, Sitamarhi alongwith the banned Foreign liquor (which does not belong to the petitioner) which might have been loaded by the driver of the Goods Carrier during the transit period.

2. For further restraining the concerned respondent from initiating any confiscation proceeding and/or putting the petitioner's Hospital Supply items to Public Auction till further order.
3. For grant of any other relief(s) which the petitioner may be entitled to in the facts and circumstances of the case.

As recovered and seized surgical items along with other items used in the hospital for patients, like Fabric Bundles, Gauze Than, Bandage Than, Pillow cover, mosquito net, blanket, bed sheets and bed cover is not liable for confiscation under section 56 of the Excise Act, as such, bar of jurisdiction in confiscation under section 60 of the Excise is not applicable and the special court excise has jurisdiction to pass order for release of aforesaid seized materials during pendency of trial.

Petitioner would be at liberty to file a petition

before the special court excise under section 451 of Cr.P.C. and if any such petition is filed for release of aforesaid seized materials the special court excise shall dispose of such petition within 30 days from the date of its filing.

Petition stands disposed of with the aforesaid observations/directions.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.05.2022
Transmission Date	NA