IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1794 of 2016

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M/s Patna Golf Club, A company limited by guarantee within the meaning of Section 25 of the Companies Act, 1956, having its registered office at Bailey Road, Police Station- Shashtinagar, District- Patna, through its Honorary Secretary, Sri Manik Vedesen, Son of Late Rajeshwar Prasad Sinha, Resident of 3, Shanti Niketan, East Boring Canal Road, Post Office - G.P.O., Police Station - Buddha Colony, District - Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Commercial Taxes Department, Patna, Bihar.
3. The Commissioner, Commercial Taxes Department, Patna, Bihar.
4. The Deputy Commissioner of Commercial Taxes Incharge, Patna, West Circle, Commercial Taxes Department, Patna, Bihar

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rohitabh Das, Advocate Mr.Parijat Saurav, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, Sc 11

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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 following relief:-

I) . For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of the order dated 03.08.2015 passed in the case of the petitioner by the respondent no. 4, the learned Deputy Commissioner of Commercial Taxes (Incharge), Patna, West Circle, Commercial Taxes Department, Patna, Bihar, adjudicating that the petitioner M/s Patna Gold Club is a 'dealer under Section 2(i) of the Bihar Value Added Tax Act, 2005 and hence is liable to pay sales tax / value added tax on the alleged sale of liquor to the members of the club in the club.

ii) For holding and declaring that the petitioner M/s Patna Gold Club is not a 'dealer' under Section 2(i) of the Bihar Value Added Tax Act, 2005 and hence is not liable to pay sales tax / value added tax on the consumption of liquor by the members in the club.

iii). For issuance of writ in the nature of prohibition or any other appropriate writ restraining the respondents from enforcing provisions of Bihar Value Added Tax Act, 2005 against the petitioner M/s Patna Golf Club.

iv). For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of the order contained in Process No. 1073 dated 07.08.2015 issued to the petitioner by the respondent no. 4, the learned Deputy Commissioner of Commercial Taxes (Incharge), Patna, West Circle, Commercial Taxes Department, Patna, Bihar, demanding the petitioner club to furnish certain details / documents for determination of the sales tax / VAT liability of the petitioner club on the consumption of the liquor by the members in the club.

v. For issuance of writ in the nature of certioriari or any other appropriate writ for quashing of the notice dated 11.07.2015 contained in process no. 941 issued by the respondent no.4, the learned Deputy Commissioner of Commercial Taxes (Incharge), Patna, West Circle, Commercial Taxes Department, Patna, Bihar, wherein the petitioner club has been called upon to make payment of Rs. 48,302.31/- for the duration till March 2015 and Rs. 32,597.80/- for the year 2015-2016 till May 2015 as sales tax / value added tax on the alleged sale of liquor by the petitioner club to its members.
vi) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case."

With the consent of the parties, following order is passed:-

For the reason that according to the petitioner the matter stands adjudicated by Hon'ble the Apex Court in the case of ***State of West Bengal and others Versus Calcutta Club Limited with another analogues case [2019(19) SCC 107],*** the matter can be remanded to the authority for its adjudication in accordance with law.

Shri Vikash Kumar, learned Standing Counsel 11, states that perhaps the provisions of the instant statute are not paramateria with that of the statute, subject matter of consideration by Hon'ble the Apex Court in **State of West Bengal (supra)**.

Be that as it may, in view of the specific prayer of the petitioner, we set aside the order dated 11.07.2015 (page 79, Annexure 7) with further direction to the petitioner to respond to the notices issued by the assessing officer, who shall take a fresh decision based on the ratio laid down by Hon'ble the Apex Court in **State of West Bengal (supra).**

In view of the same, we also quash and set aside the order dated 03.08.2015 (Page 84 Annexure 8 series), wherein the petitioner's stands liable for assessment as detailed.

We clarify that all issues are left open to be decided by the appropriate authority in accordance with law.

We expect the petitioner to fully cooperate and not take unnecessary adjournment.

The instant petition sands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/- Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2022
Transmission Date	NA