IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3448 of 2023

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Colgate Palmolive (India) Ltd., an existing Company incorporated under the Companies Act having its branch office at New Patna Bypass Road, Anishabad, Patna, Bihar- 800002, through its Authorized signatory Anil Kumar Srivastava aged about 57 years (M), S/o Late Gulab Chand Srivastava, Resident of C/o Sri Chandra Deo Singh, west of slum Qrt. No. 1 housing colony, back of Tarun Store, P.S. Kankarbagh, Patna, 800020

... ... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Commercial Taxes, Government of Bihar, Patna.
2. The Joint Commissioner of State Tax, Patna Special Circle, Patna.
3. Deputy Commissioner of State Tax, Patna Special Circle, Patna.
4. HDFC Bank, Exhibition Road, Patna.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Jitendra Motwani with Mr. Prabhat Ranjan Singh & Mr. Chirag Shetty, Advocates
For the State	:	Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-04-2023

The petitioner is concerned with the Assessment order dated 29.09.2022, passed by the Deputy Commissioner of State Tax, Patna Special Circle, Patna, as contained in Annexure- 1 to the writ application.

2. The petitioner's contention is that there is mulcted tax on tax paid by the Assessing Officer; which action is totally without jurisdiciton. The petitioner points out that his taxable

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Gross Turnover, as per Annexure- A to the counter affidavit filed on behalf of respondent Nos. 2 & 3, which is the returns filed by him, is Rs. 1,14,39,03,373.00/- and his total Output tax comes to Rs. 16,83,95,139.57/-. However, the Assessing Officer has deemed the taxable Turnover to be Rs. 1,31,24,61,318.00/-. It is the submission of the learned counsel for the petitioner that this amount is computed after including the tax payable to the taxable Turnover.

3. We have heard the learned counsel for the petitioner and also the learned counsel for the respondent-State.

4. Learned counsel for the respondent-State points out from Annexure- A to the counter affidavit filed on behalf of Respondent Nos. 2 & 3, which is the return filed by the petitioner, that the Gross Turnover declared by the petitioner himself was Rs. 1,14,39,03,373.00/-, whereas in the Tax Audit Report (TAR), the Gross Turnover is seen to be Rs. 1,31,24,61,318.00 and deductions were claimed of Rs. 16,98,95,146.00/-. It is this mismatch that has resulted in the instant assessment, is the contention raised.

5. Having gone through Annexure(s)-A & B to the counter affidavit filed on behalf of Respondent Nos. 2 & 3, we are of the opinion that the contention as to the tax being levied

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on the output tax paid cannot be countenanced. In fact, such a contention arose only because the output tax and the deductions claimed by the petitioner happens to be around 16 Crores. The Gross Turnover as seen from Annexure- B to the counter affidavit filed on behalf of Respondent Nos. 2 & 3, is inclusive of the deductions, which could as well be proved by the petitioner before the Appellate Authority.

6. We are not convinced that there is any cause for invocation of the extraordinary remedy under Article 226 of the Constitution of India, to interfere with the Assessment order dated 29.09.2022, passed by the Deputy Commissioner of State Tax, Patna Special Circle, Patna, as contained in Annexure- 1 to the writ application.

7. We leave remedy of appeal open to the petitioner. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Rajkishore/-
Shyam Bihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13-04-2023
Transmission Date	N/A

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