IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14579 of 2018

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Voltas Limited through its authorized representative Mr. Zahid Hussain, Son of Sri Jahangir Hussain, Accounts Officer of the Company, Resident of Ward No.-5, Chakradharpur, Police Station Chakradharpur, District-West Singh Bhum, Jharkhand.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary-cum-Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Bailey Road, Patna.
2. The Deputy Commissioner of Commercial Taxes, Khagaria Circle Khagaria.
3. The Assistant Commissioner of Commercial Taxes, Khagaria Circle, Khagaria.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jayanta Ray Chaudhury, Advocate Mr. Binay Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar -SC11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-08-2023

The writ petition challenges the order passed under Section 68(1) read with Section 129(1) of the Bihar Goods and Services Tax Act, 2017. The said order has raised a demand of Rs.1,05,656.00 against the petitioner herein through the driver, who was carrying a consignment of goods, sold by the petitioner to another.

2. Learned counsel for the petitioner first relied on the Notification issued by the Commissioner of Commercial Taxes

produced at Annexure-2. The said Notification provides that any movement of goods originating and terminating within the State of Bihar will not be required to generate any e-way bill; i.e. an intra-state transaction, when the consignment value does not exceed Two Lac Rupees. It is pointed out that three of the consignments, invoice value of which did not exceed the said amount, were not reckoned for generating any e-way bill; on the strength of the Gazette Notification. Insofar as the consignment having value exceeding Rupees Two lacs, there was an e-way bill generated which accompanied the consignment. It is argued that there is no way a consignment with invoice value less than Rupees Two Lacs can be generated with an e-way bill. There is also no reason to find evasion of tax and, in any event, the petitioner is a reputed Company.

3. Learned Government Pleader, on the other hand, submits that the goods with respect to all the four invoices were sent as one consignment in a single truck. It is also pointed out that on detaining the vehicle for inspection, the driver had produced one e-way bill, but on search, it was found that there were more goods than contained in the e-way bill. At first, the driver produced two more bills and later yet another one, the last of which was a supply to the State of Tamil Nadu. It is pointed

out that at least, one consignment having destination at Tamil Nadu makes an inter State movement in which Annexure-2 Notification is not applicable.

4. At the outset, we have to reject the contention of the petitioner that merely because of the reputation of the Company; the Court and the Department should assume that there would be no evasion carried out. As far as the possibility of evasion, when e-way bills were not generated, there could be multiple transport on the very same invoice which could lead to evasion.

5. We are not convinced that the petitioner could be absolved from the liability, either on the ground of their reputation and not at all on the ground of a presumption against such Companies involving themselves in evasion.

6. We have looked at Annexure-1 which is an e-way bill generated; the total value of which is Rs.7,90,000.14. Three separate invoices are indicated in the e-way bill, two of which have value below Rupees Two Lacs. The e-way bill has also been generated on 25.06.2018 at 08:19 P.M.

7. Admittedly, the consignment which is supported by Annexure-1 e-way bill was sent along with three other consignments; the tax invoices of which are produced along

with Annexure-1. At page -20, serial number of the invoice was : I18041005415 and the bill is dated 25.06.2018 at 13:07:08. At page-22 is the second bill with serial number of invoice : I18041005437 with billing date again 25.06.20218 at 17:27:58. Both these consignments are billed to Anand Tractor's R.N. Shaw Chok, Purnea, India.

8. Insofar as the third invoice is concerned, it has serial number of Invoice : I18041004915 and it was billed on 18.06.2018 at 18:38:47. Though the shipping is stated to be to M/s Wahid Alam Praveen Handloom, Araria, the supply and billing is to M/s Dixcy Textiles Private Limited at Tirupur, Tamil Nadu. Obviously, the third invoice is with respect to consignment of goods to Tamil Nadu, an inter State transport. The date of billing is far earlier to the other bills. In fact, even with respect to the first and second invoices, we referred to, the billing was done before the e-way bill for three invoices was generated. There was no reason as to why the said invoices were also not included in the e-way bill generated, especially when the invoices were generated before the e-way bill was generated, the goods were consigned to the very same party and it was intended to be transported in one vehicle.

9. We find absolutely no reason to interfere with the

order passed and dismiss the writ petition, leaving the parties to suffer their costs.

10. The vehicle was directed to be released conditionally and if any recovery is to be made, the same shall be made from the petitioner.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.08.2023
Transmission Date	