IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24208 of 2018

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1. Sun Pharma Laboratories Ltd. having its registered office at Sun House, 201, B/1Western Express Highway, Goregaon (E), Mumbai-400063 and having its local place of business at Mehta Building Compound, Sandalpur Road,Near Kushrar Gumti,Patna-800006 through its constituted attorney namely Sajjan Kumar son of Late P. Rai resident of 150 B, Arya Kumar Road, Rajendra Nagar, Patna

... ... Petitioner/s

Versus

1. The State Of Bihar through the Secretary cum Commissioner, Department of Commercial Taxes, New Secretariat, Bailey Road, Patna
2. The Secretary, cum Commissioner, Department of Commercial Taxes, New Secretariat, Bailey Road, Patna
3. The Department of Energy, Govt. of Bihar through its Principal Secretary, Patna
4. The Bihar State Power Holding Company Ltd. having its registered office at Vidyut Bhawan Bailey Road, Patna through its Managing Director.
5. The Joint Commissioner of State Taxes, Special Circle Antaghat, Collectorate, Patna
6. Alfa Infraprop Pvt. Ltd. having its registered Office at 401-404, the Engles Flight, Dr. Suren Road, Behind Guru Nanak Petrol Pump, Chakala, Andheri (East), Mumbai-400093 through its Managing Director.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, Advocate

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

Date : 12-03-2024

The petitioner is concerned with an exemption notification issued for accepting entry tax on implementation of Bihar Policy for Promotion of New and Renewable Energy Sources, 2011. The petitioner is an entity who had installed a solar power project on subletting of a contract obtained by the 6th respondent from the Bihar State Power Holding Company Limited, which is the 4th respondent. The petitioner claimed such exemption for the materials imported into the State for the said construction.

2. The exemption claim was denied by the Assessing Officer as per the impugned order dated 08.10.2018 in the writ petition on the ground that there was no notification absolving the levy of entry tax during the period in which the construction was carried out. The Assessing Officer did not notice the S.O. 391 dated 10.11.2011, which exempted the entry tax for the new and renewable energy projects for a period of five years till 10.11.2016. Admittedly, the petitioner’s activity occurred during the period 2016-17. In fact, the Bihar Goods and Services Tax (Amendment) Act, 2019 by Section 22, amended Section 174 and extended the validity of notification S.O. 391 dated 10.11.2011 till 30.06.2017. The Assessing Officer obviously has not considered the said notification.

3. In such circumstance, we set aside the order of assessment and direct the Assessing Officer to look at the matter afresh, especially reckoning the notification pointed out by us and the extension of time provided therefrom.

4. The petitioner shall produce a certified copy of the judgment before the Assessing Officer within two weeks from today. The Assessing Officer after giving an opportunity of hearing shall consider the matter and pass a speaking order within one month, therefrom.

5. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.03.2024
Transmission Date	