IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6472 of 2019

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Paradeep Phosphates Ltd. a registered Company having its regional office at House No.2 2nd Floor, Opp. A.N. College, BSIDC Colony, Boring Road, Patna-800013 through its Chief Manager Finance and Accounts namely Shashank Bhushan Mishra Male aged about 49 Years, Son of Late Kishore Chandra Mishra resident of Plot No. 1168, Ratnakar bag-2, Tankapani Road, Near Radhika Tower, Bhubaneswar, Khordha, (Orissa)-751018

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Department of Commercial Taxes, Government of Bihar, Patna
2. The Principal Secretary Cum Commissioner, Department of State Taxes,Government of Bihar, Patna
3. The Deputy Commissioner of Commercial Taxes Now Joint Commissioner of State Taxes, Patliputra Circle, Patna
4. The Office of the Deputy Commissioner, CT and GST, Paradeep Range, Jagatsinghpur Circle, Near NH 5A (Sagar Motors), Pradeep, Jagatsinghpur - 754145, Odisha.
5. The Assistant Commissioner (State Taxes), Shri Nagar Colony Circle, Punjagutta Division, Fifth Floor, B Block, Mayur Kushal Complex, Abids, Hyderabad - 500001, Telangana.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Adv.
Mr. Alok Kumar Jha, Adv.
Mr. Mukund Kumar, Adv.
Mr. Akash Kumar, Adv.
Mr. Aditya Raman, Adv.

For the Respondent/s : Mr. Vikash Kumar (SC 11)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

<u>Date : 06-05-2025</u>

In the instant writ petition, petitioner has prayed for following relief(s):-

"(a) For holding and a declaration

that that the notification number 4021 dated 25.10.2026 issued by the respondent department of commercial taxes government of Bihar, Patna is invalid and has no force of law is the same suffers from absence of jurisdiction and authority in terms of section 13(30 of the Central Sales Tax Act 1956 (hereafter referred to as the act for short) read with rule 9 (1) of the Central Sales Tax (Bihar) Rules 1957 (hereinafter referred to as the Bihar rules 1957);

(b) For holding and a declaration that neither any provision for the act nor any provision of the Cental Sales Tax (Registration and Turnover) Rules 1957 (hereinafter referred to as the Cental rules 1957 for short) nor any provision of the Bihar rules 1957 confers any power upon the State government in the Department of commercial taxes to delimit the scope for correction/modification of the declaratory forms like form F on account of technical human error so as to render the whole purpose of the act meaningless;

(c) For issuance of a writ in the nature of certiorari for quashing of the letter number 817/Patna dated 06.10.2018 issued by the respondent Joint Commissioner of State Taxes, Patliputra Circle Patna whereby the request made through letter dated 15.05.2018 has been rejected for reasons of time-limit fixed for such purpose by the aforesaid impugned notification which is in fact illegal and beyond the scope of the act, Bihar rules 1957 and cental rules 1957;

(d) for issuance of a writ or order or direction upon the respondents specially the respondent Joint Commissioner Of State Taxes, Patliputra Circle Patna to a permit necessary in declaratory form F downloaded from the website of the respondent department for the year 2013 – 2014 as requested by the petitioner in the last representation bearing reference number PPL/BH 14 – 15/1018 dated 15.05.2018 so that the petitioner company may not attract huge liability of tax and liabilities in terms of the provisions of the act and the cental rules 1957 in other states on account of non-production of declaratory form F in support of stock transfers received in the state of Bihar from other states;

(e) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

2. Petitioner is into the sales of pesticides and having three offices at Patna, Orissa and Telangana. During the year 2013 and 14 he had transferred certain stocks from

Telangana and Orissa to the tune of Rs. 10,66,70,687.50/- (ten crore sixty six lakh seventy thousand six hundred eighty seven rupees and fifty paise) and Rs. 19,70,57,388.27/- (nineteen crore seventy lakh fifty seven thousand three hundred eighty eight rupees and twenty seven paise) respectively. In respect of transfer of goods from one office to another office from a different state, petitioner's company is required to generate form 'F'. Form 'F' was downloaded by the petitioner on 19.05.2014. There was an error committed while entering Rs. 10,66,70,687.50/- (ten crore sixty six lakh seventy thousand six hundred eighty seven rupees and fifty paise) for Telangana and Rs. 19,70,57,388.27/- (nineteen crore seventy lakh fifty seven thousand three hundred eighty eight rupees and twenty seven paise) for Orissa. In other words, certain amount mentioned in the Telangana has been wrongly added for Orissa while downloading form 'F'. In this backdrop, the petitioner filed application on 05.12.2014 for rectification of form 'F' issued by the State Authorities of Bihar. The same was noted and communication has been made on 06.12.2014 stating that State of Bihar is likely to issue policy insofar as rectification of form 'F'. Therefore, the petitioner was asked to wait for sometime. When things stood thus, on 10.10.2015, State Government issued a notification on 25.10.2016 for rectification of form 'F' during the intervening period from 10.11.2016 to 09.02.2017 and to such of those form 'F' was downloaded prior to 10.10.2015. The same was not considered for the reasons that petitioner could not invoke remedy under the notification dated 25.10.2016. Resultantly, the petitioner has invoked remedy before this Court. The petitioner has sought for a declaration of the notification dated 25.10.2016 is invalid and also sought for quashing of Letter No. 817/Patna dated 06.10.2018 issued by the respondent – Joint Commissioner of Sales Tax, Patliputra Circle, Patna whereby the petitioner's request for correction of form 'F' through letter dated 15.05.2018 in view of the time limit stipulated in the notification dated 25.10.2016.

3. Learned counsel for the petitioner submitted that grievance of the petitioner is in narrow compass to the extent of mentioning the figure in form 'F' insofar as Telangana and Orissa which was downloaded by the petitioner on 19.05.2014 and thereafter sought for rectification of the same on 05.12.2024 and subsequent dates. In not taking note of 25.10.2016 notification and get it rectification of form 'F' would not be a hurdle, since there is no revenue loss to the state exchequer either to State of Bihar, State of Orissa or State of Telangana. It is also submitted that there would not be any material change insofar as filing of return by the petitioner for the year 2013-14.

4. *Per contra*, learned counsel for the respondent resisted the aforementioned contention and submitted that the petitioner has not availed the benefit of notification dated 25.10.2016 which permits for rectification of form

'F' during the intervening period from 10.11.2016 to 09.02.2017 to such of those persons who have downloaded form 'F' prior to 10.10.2015. Therefore, petitioner is not entitled to get rectification of form 'F'. He relied on **Sub-rule 3 and 7 of Rule 24 of Bihar Value Added Tax Act, 2005** in pointing out filing of return, deadline would be 31.12.2014 and he has also relied on judgment of Co-ordinate Bench that rectification of form 'F' is impermissible. In the case of Cadbury India Limited vs. State of Bihar & Anr. dated 08.08.2019, passed in CWJC No. 15687 of 2017. Thus, the petitioner has not made out a case so as to grant relief insofar as rectification of form 'F' as claimed by the petitioner.

5. Heard learned counsel for the respective parties. The petitioner is having sales transaction of pesticides titled as " Paradeep Phosphates Ltd." having offices as Patna, Orissa and Telangana. Stocks lying in Telangana and Orissa was required at Patna during the year 2013 and 14. Resultantly, Patna office demanded for supply of

stocks from Telangana and Orissa to the tune of Rs. Rs. 10,66,70,687.50/- (ten crore sixty six lakh seventy thousand six hundred eighty seven rupees and fifty paise) and Rs. 19,70,57,388.27/- (nineteen crore seventy lakh fifty seven thousand three hundred eighty eight rupees and twenty seven paise) respectively. The aforementioned transaction is only inter state and to self-company and not for sales. It was internal arrangement of sales of the petitioner's company, only taking stocks from one office to another office. In this regard, statute mandates for downloading of form 'F', the petitioner had downloaded form 'F' on 19.05.2014. Thereafter, he has noticed that certain errors were stated to have been committed while uploading the details insofar as downloading form 'F' to the tune of Rs. 8,10,65,722.50/- (Eight crore ten lakh sixty five thousand seven thousand twenty two rupees and fifty paise). To rectify the aforementioned material information, petitioner filed application for rectification of form 'F' on 05.12.2014. The respondents have rejected the claim of rectification of form 'F'.

6. The learned counsel for the petitioner submitted that it is only a typographical error committed by the petitioner while furnishing information at the time of downloading form 'F' to the tune of certain amount from Telangana to Orissa. No harm would cause or any revenue loss cause to the State Exchequer either to Bihar, Telangana or Orissa. In not taking note of notification dated 25.10.2016 insofar as rectification of form 'F' during the intervening period from 10.11.2016 to 09.02.2017 to such of those persons who have downloaded form 'F' prior to 10.10.2015. On this technicalities, the official respondents cannot reject the petitioner's claim for rectification of form 'F'. Having regard to the advance technology, most of the transactions are through online or some technology. Such systems are new to the person to person. Therefore, it is only a typographical error or errors committed by the petitioner's staffs or officials inadvertantly and it can be

rectified. In other words, it is a curable defect. Curable defects can be carried out unless there is no impact to the extent of revenue loss to the State Exchequer. Undisputedly, in the event of rectification of form ‘F’ by the official respondent, as claimed by the petitioner, would not result in any loss to the State Exchequer either to the State of Bihar or State of Orissa or State of Telangana.

7. Learned counsel for the respondent relied on **Sub-section 3 and 7 of Section 24 of Bihar Value Added Tax Act, 2005** and it relates to filing of return. In the present case last date of filing of return is 31.12.2014, whereas petitioner had filed return on 28.12.2014. This provision has no application to the case in hand. Further he relied on Judgment in the case of Cadbury India Limited cited (supra). Factual aspects of the present case and Cadbury India Limited are different as is evident from the fact that in the case of Cadbury India Limited, there is no rectification of form ‘F’. On the other hand, it relates to certain filing of revised return for a particular year.

Therefore, the **Cadbury India Limited** decision do not assist the respondents.

8. In the light of these facts and circumstances, the petitioner has made out a case so as to interfere with the impugned action of the respondents. Letter No. letter number 817/Patna dated 06.10.2018 issued by the respondent- Joint Commissioner of State Taxes, Patliputra Circle, Patna stands set aside. Notification dated 25.10.2016 would not come in the way of the petitioner insofar as rectification of form 'F', for the reasons that petitioner's rectification of form 'F' with reference to its downloading on 19.05.2014 read with rectification application dated 05.12.2014, there was no hurdle for the respondents to rectify as on 05.12.2014. On the other hand, unnecessarily official respondents were waiting for floating of a policy decision of the State Government insofar as issuance of notification dated 25.10.2016. In not availing the benefit of notification dated 25.10.2016 by the petitioner, would not be a hurdle for rectification of

form 'F' only with reference to certain amount mentioned in the Telangana State was taken note of for the purpose of Orissa. Otherwise, there is no material change insofar as taking note of both the figures in Telangana and Orissa. In other words, certain amount which were earmarked for Telangana has been indicated for the Orissa. Therefore, the concerned authority is hereby directed to undertake rectification of form 'F' within a period of three months from the date of receipt of this order.

9. Accordingly, the present Civil Writ Jurisdiction Case No.6472 of 2019 stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2025
Transmission Date	NA