(2011) 07 PAT CK 0115

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10124 of 1989

Champaran Sugar Company Ltd. APPELLANT

Vs

The State of Bihar and The Assistant Commissioner RESPONDENT

Date of Decision : 13-07-2011

Acts Referred:

Citation : (2011) 07 PAT CK 0115

Final Decision : Allowed

Judgement

R.M. Doshit, C.J.—Learned Advocate Mr. Devendra Prasad Sinha appearing for the Petitioners is not present on call.

2. Since common questions of fact and law are involved in both the writ petitions, they are decided by this common judgment.

3. These two petitions under Article 226 of the Constitution are filed by M/S Champaran Sugar Company Limited, a manufacturer of sugar (hereinafter referred to as "the Company") against the demand for purchase tax over the purchase of the sugarcane made by the Respondent authorities under the Bihar Finance Act, 1981 (hereinafter referred to as "the Finance Act"). According to the Company, it is a manufacturer of sugar. For manufacture of sugar, the Company is required to purchase sugarcane as the raw material. The supply and purchase of sugarcane is regulated by the Bihar Sugarcane Regulation of Supply and Purchase Act, 1981 (hereinafter referred to as "the Sugarcane Act"). Though the Petitioner has paid purchase tax over the sugarcane purchased by it under the Sugarcane Act, under the impugned demand the Company has been called upon to pay purchase tax on the sugarcane purchased by it under the Finance Act as well. Thus, the same raw material is subjected to double taxation. The Sugarcane Act being an Act especially enacted for the purpose; levy of purchase tax under the Finance Act is illegal and untenable.

4. Learned Advocate Mr. Tej Bahadur Singh has appeared for the Respondent State of Bihar. He has submitted that the Hon''ble Supreme Court has, in the

matter of Gobind Sugar Mills Ltd. Vs. State of Bihar and Others, held that the tax on purchase of sugarcane by a sugar mill under the Finance Act, and also under the Sugarcane Act was not sustainable. The sugarcane Act being a special enactment in the subject matter, the sugarcane Act shall prevail.

5. In view of the above judgment of the Hon''ble Supreme Court, both these petitions are allowed. The demand of purchase tax over the sugarcane purchased by the Company under the Bihar Finance Act, 1981 is quashed and set aside.

6. The parties will bear their own cost.

