(2004) 04 PAT CK 0093

In the Patna High Court

Case No : C.W.J.C. No. 12651 of 2002

Snowtemp Commercial (P) Ltd. APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 05-04-2004

Acts Referred:

Citation : (2004) 3 PLJR 57

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : S.D. Sanjay and Suraj Samdarshi, for the Appellant; V.M.K. Sinha, for Central Coal Fields Limited, for the Respondent

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—Heard learned Counsel for the parties.

2. Admittedly the Petitioners in these writ petitions claim for refund of sales tax realised by the Respondent-Coal Company for sale of coal to them despite the exemption granted by the erstwhile State of Bihar.

3. One of the questions involved is as to whether the exemption granted by the State of Bihar shall continue to apply even after bifurcation of the State as per Reorganization Act.

4. According to the learned Counsel for the Petitioners, this question may not be relevant in the present case as in their case learned Single Judge of this Court has held that they will continue to derive benefit of exemption as per the decision of the erstwhile State of Bihar even after bifurcation and the same has also been upheld by dismissal of appeal by the Division Bench. According to him, the Coal Company has not gone up to Supreme Court against the order of the Division Bench.

5. However, Mr. B.M.K. Sinha, learned Counsel appearing for the Respondent-Coal Company submitted that, in fact, the larger question as to whether in such

case the Petitioners will be entitled for exemption on the basis of the decision of the erstwhile State of Bihar even on creation of State of Jharkhand after bifurcation as per the provision of Reorganization Act is pending consideration before the Apex Court in SLP (Civil) No. 7755 of 2002 (Commissioner, Commercial Taxes Ranch and Anr. v. Swarn Rekha Cokes & Coals P. Ltd. and Ors. which has been heard and the judgment has been reserved. This fact has been admitted by the learned Counsel for the Petitioners.

6. Under such circumstances, in my opinion, decision of the Supreme Court in the said case shall have to be followed in all such cases obviously because the Respondent-Coal Company has acted as an Agent for realising tax on behalf of the State of Jharkhand and deposited the same in the Treasury of the said State. Thus unless it is finally held by the Apex Court that in such cases the buyer-Petitioners will be entitled for exemption the Petitioners herein cannot derive the benefit after reorganization by virtue of any judgment/order passed in the earlier case.

7. These writ petitions, thus, permitted to be withdrawn, as prayed. However, it is needless to add that the decision of the Apex Court in the aforementioned case shall be binding on the parties and the parties will be governed by the said decision and act accordingly for the purpose including for refund.