(1986) 03 PAT CK 0003

In the Patna High Court

Case No : C.W.J.C. No. 355 of 1986 (R)

Tata Iron and Steel Co. Ltd. APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 05-03-1986

Acts Referred:

Bihar Finance Act, 1981 — Section 45
Central Excises and Salt Act, 1944 — Section 35(b)

Citation : (1986) PLJR 477

Hon'ble Judges : H.L. Agrawal, J;A. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and Government Pleader no. II at considerable length. Learned counsel for the petitioner submitted that the alternative remedy of appeal was not an effective remedy, particularly, in view of the fact that the Revenue Authority are reluctant to grant stay. In our opinion, the remedy of appeal available u/s 45 of the Bihar Finance Act, 1981 is adequate, efficacious and proper remedy. Mr. K.D. Chatterjee appearing for the petitioner has invited out attention to the case of Ram & Shyam Co. Vs. State of Haryana and others (AIR 1985 Supreme Court 1147) where it was observed that "an appeal in all cases cannot be said to provide in all situations an alternate effective remedy". On the submissions made by the learned counsel for the petitioner, we fail to persuade ourselves that the alternative remedy in this case would not be effective. This Bench in C.W.J.C. 1744 of 1985 (R) held that the remedy available u/s 35(b) of the Central Excise and Salt Act was adequate and efficacious while dismissing the said writ application in limine and the petitioner in that application went to the Supreme Court in SLP (Civil) 214 of 1986. The Supreme Court dismissed the said leave petition while affirming the view of this Court that there was adequate alternative remedy available to the petitioner. We, therefore, would refer the petitioner, if so advised to exhaust their statutory remedy and accordingly dismiss this application in limine.

