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(1992) 08 PAT CK 0007

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 8283 of 1991

Uma Shankar Prasad APPELLANT

Vs

The Union of India and Others RESPONDENT

Date of Decision : 09-08-1992

Acts Referred:
Income Tax Act, 1961 — Section 206C, 44AC

Citation : (1993) 2 PLJR 75

Hon'ble Judges : S.B. Sinha, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : Rajendra Narain, for the Appellant; Renuka Sharma for the Union of India and Mr. Rastogi for the Commissioner of Income-tax, for the Respondent

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—These four writ application have been filed by the petitioners for issuance of an appropriate writ and/or directions restraining the Respondents from collecting any amount as income tax in respect of the purchases of country spirit made by them from different warehouses in the State of Bihar as licensed retail vendors under the provisions of section 206C of the income tax Act, 1961 (hereinafter to be referred to as ''the Act'' only). Admittedly the petitioners had been holding licences for such period which has already expired on 31st March, 1992.

2. The obligation on the seller to collect income tax at source had been provided u/s 206C of the Act read with Section 44AC thereof. The Finance Act, 1992, has deleted section 44AC and sub-section (1) to Section 206C has been substituted by a new sub-section. The present set of cases are governed by the provisions as they existed till 31st March, 1992. After a thorough consideration of the then provisions, this Court in the case of State of Bihar and another Vs. The Commissioner of income tax, Bihar (C.W.J.C. No. 2429 of 1992 disposed of on 15th May, 1992) has held that with respect to the supplies of country liquor to the retail vendors, the State of Bihar will be deemed to be the seller for the

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purposes of the impugned provisions and keeping in view the statutory defintion of ''purchase price'' given u/s 44AC, which was to govern Section 206C as well, the excise duty payable in respect of the said sale were also deemed to be a part of the purchase price for the limited purpose of those provisions.

In the above view of the matter, there is no merit in these writ applications and the same are, accordingly, dismissed. However, there shall be no order as to costs.

S.B. Sinha J.

I agree.

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