IN THE HIGH COURT OF JHARKHAND AT RANCHI
Tax Case No.08 of 2001

Steel Authority of India Limited
.... Petitioner.

-Versus-

The State of Bihar (now Jharkhand) & Ors.
.... Respondents.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner	:	Mr. Sumeet Gadodia, Advocate Mr. Ranjeet Kushwaha, Advocate
For the State	:	Mr. Ashutosh Anand, A.A.G.-III

Order No.49 **Date: 27.04.2026**

1. The learned counsel for the parties were heard in this matter on 21st April, 2026. However, since the arguments could not conclude, the matter was listed today at 2:15 p.m. for further hearing subject to any overnight part-heard matter.

2. Accordingly, even today, we have heard the learned counsel for the parties and we proceed to dispose of this matter finally.

3. This is a matter where the Commercial Taxes Tribunal, Bihar, Patna (hereafter to be referred as 'the Tribunal') has referred the following six questions of law for the determination of this Court under Section 48(3) of the Bihar Finance Act, 1981:-

   i. Whether in the facts and circumstances of this case assumption of jurisdiction against the applicant under Section 46(4) of the Bihar Finance Act, 1981 read with Section 9(2) of the Central Sales Tax Act, 1956 was unwarranted and initiated on account of non-discovery of illegalities or improprieties in the assessment from the record of assessment, at the time of assumption of such jurisdiction and initiation of proceeding against the applicant.

   ii. Whether the notice under Section 46(4) dated 15.2.95, on the applicant, was void in law on account of vagueness and non-

allegation of any illegality and impropriety and vitiated on account of prejudgment and bias.

iii. *Whether in the facts and circumstances of the case, the initiation and conduct of proceeding under Section 46(4) against the applicant was vitiated on account of mala fide and bias from the start to the finish which has rendered the order passed on 16.6.96 modified on the fringe by two revision dt. 3.8.96 and 11.10.96 null and void.*

iv. *Whether in the facts and circumstances of the case the Tribunal has erred in holding that sales outside the state by stockyards and branches under T.B.S.S. were inter-state sales from Bihar.*

v. *Whether in the facts and circumstances of this case and the law contained in the judgment of the Hon'ble Supreme Court in 102 S.T.C.373 (B.H.E.L'S case) and 105 S.T.C.152 (Ashok Leland's Case), the Tribunal has erred in rejecting the petition of the applicant for making the states in which branches or stockyards of the applicant had paid local sales tax on the same transactions as parties in this case and hearing them on the nature of transactions.*

vi. *Whether in the facts and circumstances of the case the Tribunal has erred in the interest of justice and fairness, in omitting to direct that opportunity should be provided to applicant to obtain 'C' forms from the purchasers from branches and stockyards under T.B.S.S. in view of facts that the transaction with them were now held to be inter-state sales.*

4. Mr. Sumeet Gadodia, the learned counsel for the Steel Authority of India Limited (SAIL), however, clarified that the SAIL was confining itself seeking a determination on questions of law nos.(i), (iv), (v) and (vi).

5. Accordingly, we heard the learned counsel for the parties on the said four questions. The facts and circumstances in which this reference arises are set out briefly hereafter.

6. By an assessment order dated 31st March, 1992, the Deputy Commissioner of Commercial Taxes, Bokaro Circle, Bokaro Steel

City, agreed with SAIL's contention that the transfer of the manufactured goods valued at Rs.14,24,08,53,555/- constituted a stock transfer of goods and not an inter-State sale. For reaching this conclusion, the Deputy Commissioner of Commercial Taxes relied *inter alia* on stockyard dispatch statement, inter-unit stock transfer, consignment note, invoices and Form 'F'.

7. After expiry of almost three years from the date of the assessment order dated 31st March, 1992, by a notice dated 15th February, 1995, the Joint Commissioner of Commercial Taxes (Administration), Dhanbad Division, by purporting to exercise the revisional powers under Section 46(4) of the Bihar Finance Act read with Section 9 of the Central Sales Act, 1956 called upon SAIL to explain the above referred transaction, in the context of various deficiencies including certain blank/missing Forms 'C' and 'F'.

8. The SAIL appeared before the revisional authority in pursuance of a notice dated 15th February, 1995, but objected to the very initiation of the *suo moto* revisional proceeding, *inter alia,* on the ground that there was neither any power nor any occasion for initiating the same. The SAIL alleged that this was nothing but a fishing enquiry which was not permitted under the provisions and the scheme of the Bihar Finance Act.

9. By order dated 16th February, 1996, however, the revisional authority partly disagreed with SAIL's contention that the transaction constituted only a stock transfer and not an inter-State sale and determined the tax liability at Rs. 99,68,50,917.34.

With respect to the CST sales among the strength of Form 'C', however, the matter was remanded to the assessing officer, and therefore, this part of the order is not the subject matter of adjudication before this Court.

10. The SAIL challenged the revisional authority's order dated 16th February, 1996, before the Commercial Taxes Tribunal, Bihar, Patna, by instituting a Revision Case No.D.N.-129/1996. The Tribunal, by its order dated 11th December, 1997, dismissed the revision, primarily relying upon the decision of the Hon'ble Supreme Court in ***Ashok Leyland Limited vs Union of India & Ors., (1997) 9 SCC 10*** (hereafter referred to as Ashok Leyland-I). SAIL's plea for impleading the other States as parties was also rejected, again, primarily relying on Ashok Leyland-I.

11. The SAIL, then filed Reference Case No.D.N.-9/1998 before the Commercial Taxes Tribunal, Bihar, Patna, seeking reference of certain questions, which, in their opinion, were required to be determined by the High Court. This was under Section 48(1) of the Bihar Finance Act. By order dated 31st July, 2000. However, the Tribunal dismissed this reference application.

12. The SAIL, therefore, preferred Tax Case No.19 of 2000 (R) before this Court, seeking directions to the Tribunal for referring the questions to this Court for its determination. By order dated 16th October, 2000, this Court directed the Tribunal to refer the questions of law, now set out in paragraph 3 of this order, for the determination of this Court. In compliance with this Court's order dated 16th October, 2000, the Tribunal, by its order dated 9th

April, 2001, referred the above questions to this Court for determination.

13. Mr. Gadodia, the learned counsel for the SAIL, at the outset submitted that the Hon'ble Supreme Court had overruled its view in Ashok Leyland-I case in the matter of ***Ashok Leyland Limited vs. State of Tamil Nadu & Another, (2004) 3 SCC 1*** (hereafter referred to as Ashok Leyland-II) on the scope of revisional jurisdiction.

14. Mr Gadodia submitted that the revisional powers could not have been exercised at all, given the observations of the Hon'ble Supreme Court in the case of Ashok Leyland-II, that the reference to the provisions of the CST Act was an instance of legislation by reference and not by incorporation. He submitted that, at the highest, the assessment order could have been reopened and re-assessment undertaken by the same assessing authority if the same had been obtained by commission of fraud, collusion, misrepresentation, or suppression of material facts, or by giving or furnishing false particulars. He submitted that none of such factors was present in this case and, therefore, the very exercise of revisional powers by the Joint Commissioner was *void ab initio* and the proceedings based upon such initiation ought to have been quashed and set aside.

15. Mr. Gadodia submitted that the Hon'ble Supreme Court's decision in Ashok Leyland-II, while overruling the view in Ashok Leyland-I, only declared the law as it always was and, therefore, the exercise of *suo moto* revisional jurisdiction by the Joint

Commissioner could not be sustained. He submitted that the provisions of Section 6(A) of the Central Sales Tax Act, 1956, were amended, and after Section 6(A)(2), sub-section (3) was inserted to provide for re-assessment by the assessing authority or revision in accordance with the provisions of the general sales tax law of the State on certain grounds. He submitted that such an amendment/insertion was not retrospective.

16. Mr. Gadodia submitted that even otherwise, on facts, the documents on record were sufficient to conclude that the transaction in question was only a stock transfer and not an inter-State sale exigible to any taxes. He, however, fairly pointed out that in one of the Forms 'F', the particulars were left blank and, therefore, the legal fiction about conclusivity would not apply to that particular transaction covered by that form. However, he maintained that the other Forms 'F' was complete and therefore, the legal fiction should have operated in its entirety, and the conclusion drawn therefrom was not even permissible to be rebutted except perhaps under a narrow window carved out by the Hon'ble Supreme Court.

17. Mr. Ashutosh Anand, the learned counsel for the respondents, submitted that the exercise of revisional powers, being consistent with the view taken in Ashok Leyland-I, could not be styled as an exercise without jurisdiction on the date on which it was initiated. He submitted that in any event, even the Ashok Leyland-II decision permits the re-opening of the assessment by the same assessing authority or by the revisional authority where the

assessment order has been obtained by commission of a fraud, collusion, misrepresentation or suppression of material facts or giving or furnishing false particulars. He submitted that in the present case, all these vices were attracted, and the original assessment order was made without scrutinising the documents, including the Forms 'C' and 'F' furnished by the SAIL.

18. Mr Ashutosh Anand submitted that in this case, several forms contained blanks, but they were not even noticed by the original assessing authority. He submitted that this was not a case of mere change of opinion by the assessing authority, but that, after noticing the glaring omissions, the revisional authority was forced to intervene and carry out the re-assessment.

19. Mr Ashutosh Anand submitted that since the decision in Ashok Leyland-II was delivered much later, the Tribunal had no occasion to consider the same. The Tribunal also did not disturb the findings about serious omissions in the forms and other material.

20. Based on the above, Mr Ashutosh Anand submitted that the questions referred should be answered against SAIL and in favour of the revenue.

21. The rival contentions now fall for our determination.

22. In the facts of this case, it is true that the revisional authority, while exercising *suo moto* powers of revision, went by the law laid down in the Ashok Leyland-I.

23. However, in Ashok Leyland-II, the Hon'ble Supreme Court has substantially overruled the view taken in Ashok Leyland-I, *inter alia*, by explaining the scope of the provisions contained in

Section 6(A)(2) of the CST Act. The Hon'ble Supreme Court has held that Section 6(A)(2) of the said Act created a legal fiction that imparts conclusivity to an assessment order, if made after due consideration of Form 'F' submitted by the assessee.

24. However, the Hon'ble Supreme Court, in Paragraph 79 of Ashok Leyland-II, clarified that although such orders are conclusive for all purposes, they can be reopened on a limited set of grounds, such as fraud, collusion, misrepresentation, etc.

25. The Hon'ble Supreme Court at paragraphs 111, 112 and 113 of the Ashok Leyland-II case made the following observations, which are also quite relevant:-

> *"111. We, therefore, are of the opinion that the observations made by this Court in Ashok Leyland to the effect that an order passed under sub-section (2) of Section 6-A can be the subject-matter of reopening of a proceeding under Section16 of the State Act were not correct.*
>
> *112. However, we may hasten to add that the same would not mean that even wherein such an order has been obtained by commission of fraud, collusion, misrepresentation or suppression of material facts or giving or furnishing false particulars, the order being vitiated in law would not (sic) come within the purview of the aforementioned principle.*
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> *113. An order of assessment is albeit passed under the State Act. But once it is held that the concerned State Act as also the Central Act is not applicable, as a consequence whereof sales tax would be payable under another State Act, it is doubtful as to whether the power to reopen the proceedings under the State Act or the Central Act would be attracted. There does not exist any power in the statute to rectify a mistake. In that view of the matter, mere change in the opinion of the assessing authority or to have a relook at the matter would not confer any jurisdiction upon him to get the*

> *proceedings reopened. Discovery of a new material although may be a ground but that itself may not be a ground for reopening the proceedings unless and until it is found that by reason of such discovery, a jurisdictional error has been committed. In other words, when an order passed in terms of sub-section (2) of Section 6-A is found to be illegal or void ab initio or otherwise voidable, the assessing authority derives jurisdiction to direct reopening of the proceedings and not otherwise."*

26. Thus, from the above, it does appear that the view in Ashok Leyland-I was substantially overruled by the Hon'ble Supreme Court in Ashok Leyland-II. However, the Hon'ble Supreme Court clarified that the same would not mean that even where an assessment order has been obtained by commission of fraud, collusion, misrepresentation or suppression of material facts or furnishing of false particulars, the assessment cannot be reopened.

27. Mr Gadodia's contention that even the limited window left open by the Hon'ble Supreme Court would apply to the assessing authority re-opening the assessment and not to a revisional authority seeking to revise the assessment order, or Mr Ashutosh Anand's contention to the contrary, need not be decided at this stage, considering the order that we finally propose to make in this matter.

28. Considering the above circumstance, we think that the interest of justice would be best met if the Tribunal's impugned order dated 11th December, 1997, is set aside to the extent that it concerns the issues arising out of Form 'F' before the Tribunal.

29. Mr. Gadodia's contention that upon remand, the issue arising out of Form 'C' has already been decided in favour of the assessee is also kept open for consideration by the Tribunal in accordance with law. As indicated earlier, the SAIL's limited challenge in this reference was in relation to the transactions covered under Form 'F' only.

30. The arguments based on the effect of the insertion of Section 6(A)(3) in the CST Act by the Finance Act, 2010, are also kept open for the decision of the Tribunal in the first instance.

31. One of the main reasons for remanding this matter is that Mr Gadodia argued that the material on record was sufficient to conclude that there was no question of fraud, collusion, misrepresentation, suppression of material facts, or the furnishing of false particulars, and that Mr Ashutosh Anand sought to contend to the contrary. Such issues are best decided by the Tribunal in the first instance, which is the final fact-finding authority. Therefore, we felt that it would not be appropriate for this Court to make a truncated decision on points of law and then remand the matter to the Tribunal to apply that law to the material on record. The Tribunal's comprehensive decision, both on points of law and on facts, given the overruling of Ashok Leyland-I by Ashok Leyland-II, would best serve the interests of justice.

32. Accordingly, we set aside the Tribunal's impugned order to the extent the same was challenged before us, remand the matter to the Tribunal for fresh consideration of Revision Case

No.D.N.129/1996 by considering the rival contentions in the context of the decision of the Hon'ble Supreme Court in the case of Ashok Leyland-II and the impact of the amendment brought about to Section 6(A) of the CST Act by the Finance Act, 2010. All rival contentions on such issues, as well as the application of the legal position to the material on record, are kept open for the Tribunal to decide in the first instance.

33. Since this is an old matter, we request the Tribunal to dispose of it as expeditiously as possible, in any event, within four months of the parties filing an authenticated copy of this order before the Tribunal. The parties, through their counsel, are directed to appear before the Tribunal on 14th May, 2026, at 11:30 a.m. and file an authenticated copy of this order.

34. Learned counsel for the parties assure this Court that they will co-operate with the Tribunal in the early disposal of the matter.

35. The Registry is directed to remit the records and proceedings in this matter to the Tribunal before 12th May, 2026, so that the record is available to the Tribunal at the earliest.

36. This case is disposed of in the above terms without any orders for costs. All concerned are to act on an authenticated copy of this order.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

27th April, 2026
Sanjay/Rohit
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