

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.227 of 2024

M/s Savex Technologies Private Limited, a Private Limited Company incorporated under the provisions of Companies Act, 1956, having its Branch Office at G-37, P. C. Colony, Kankarbagh, Patna, through its Authorized Representative, namely, Shiv Kumar Jha, Male, aged about 43 years, son of Dhaneshwar Jha, Resident of House No. C/37, New A.G. Colony, Khagaul Road, Near G.D. Goenka School, Danapur, P.S. Khagaul, District Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary cum Commissioner of Commercial Taxes, Bihar, presently known as Secretary cum Commissioner of State Taxes, Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Commissioner of Commercial Taxes, presently known as Secretary cum Commissioner of State Taxes, Government of Bihar, Vikash Bhawan, Patna.
3. The Joint Commissioner of Commercial Taxes (Appeals), Central Division, Patna, presently known as Additional Commissioner of State Taxes (Appeals), Central Division, Patna.
4. The Commercial Taxes Officer, Patliputra Circle, Patna, now known as Assistant Commissioner of State Tax, Patliputra Circle, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mohit Agarwal, Advocate
For the Respondent/s : Mr. Government Pleader 7

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE DR. ANSHUMAN)
Date : 09-10-2025

Ref: I.A. No.1 of 2024

Heard learned Counsel for the appellant and
learned Counsel for the State-respondents.

2. The present interlocutory application has been
filed for extension of the period of limitation as there is delay of



16 days in preferring the present memo of appeal.

3. Learned Counsel for the appellant submits that the time was consumed in seeking legal opinion and only due to this reason the memo of appeal could not be preferred within time.

4. Learned Counsel for the State-respondents has no objection in condoning the delay.

5. As such, the delay of 16 days in filing the appeal is hereby condoned and I.A. No.1 of 2024 is hereby allowed.

Ref: I.A. No.2 of 2024

6. The present interlocutory application has been filed for stay of the impugned order dated 05.12.2023 communicated vide Memo No.510 dated 14.12.2023 passed by the Commercial Taxes Tribunal, Bihar, Patna, in Appeal Case No.PT-178 of 2019 during the pendency of the present appeal.

7. Learned Counsel for the appellant and learned Counsel for the State-respondents jointly submit that in spite of hearing on stay petition, the present miscellaneous appeal may be disposed off today itself as the issue involved in the present Miscellaneous Appeal and Miscellaneous Appeal No.231 of 2024 is identical and both appeals have arisen from common



order passed by the Commercial Tax Tribunal, Bihar, Patna, vide order dated 5th of December, 2023.

8. In the light of the submissions made the present I.A. No.2 of 2024 is hereby disposed off as not pressed.

M.A. No.227 of 2024

9. The present miscellaneous appeal has been preferred against the order dated 05.12.2023 communicated vide Memo No.510 dated 14.12.2023 passed by the learned Commercial Taxes Tribunal, Bihar, Patna, presided by Chairman, Member Department and Member Account in Appeal Case No.178 of 2019.

10. Learned Counsel for the appellant submits that two cases were heard analogous, i.e., Appeal Case Nos. PT-178 and PT-179 of 2019, and disposed off by a common order dated 05.12.2023 passed by the Commercial Taxes Tribunal, Bihar, Patna presided by Chairman, Member Department and Member Account. Learned Counsel for the appellant submits that against the said common order two miscellaneous appeals have been preferred. The present miscellaneous appeal has arisen from Appeal Case No. PT-178 of 2019 whereas miscellaneous appeal No.231 of 2024 had arisen from Appeal Case No.PT-179 of 2019. Counsel for the appellant submits that



vide order dated 06.08.2025, Miscellaneous Appeal No.231 of 2024 was allowed by a coordinate Division Bench of this Hon'ble Court. Counsel for the appellant submits that since the matter directly and substantially in issue in the present appeal is exactly similar to the Miscellaneous Appeal No.231 of 2024, therefore, he submits that the present appeal may be allowed in the light of order dated 06.08.2025 passed in Miscellaneous Appeal No.231 of 2024 by Hon'ble Division Bench.

11. Learned Counsel for the State supported the argument of learned Counsel for the appellant and submits that State-respondents have no objection if the present appeal be decided in the light of order dated 06.08.2024 passed in Miscellaneous Appeal No.231 of 2024 by the Hon'ble Division Bench as two appeals, namely, Appeal Case Nos. PT-178 and PT-179 of 2019 (Memo No.510 dated 14.12.2010) were under challenge in Miscellaneous Appeal No.227 of 2024 and Miscellaneous Appeal No.231 of 2024 respectively.

12. In the light of the submissions made and upon perusal of the order dated 06.08.2025 passed by Hon'ble Division Bench in Miscellaneous Appeal No.231 of 2024, the extract of the order states as follows:

“In the instant petition, Appellant has



prayed for the following relief(s):

“1. That the present appeal is being directed against the order dated 05.12.2023, communicated on 15.12.2023 vide Memo No. 510 dated 14.12.2023 certified copy of which was served on 13.03.2024 passed by learned Commercial Taxes Tribunal, Bihar, Patna, presided by Chairman, Member Department and Member Account in Appeal Case No. PT-179 of 2019 whereby the appeal preferred by Appellant against the order dated 25.11.2017 passed in Appeal Case No. ST/PR-149/2017-18 by the Additional Commissioner of State Taxes (Appeal), Central Division, Patna was partly confirmed on the issue of taxation of Tonner and Cartridges at the rate prescribed for goods of residuary entry but remanded the issue of adjustment of Entry Tax from VAT liability and imposition of interest under section 39(4) of the Bihar VAT Act, 2005 to the Lower Court for fresh examination and to pass fresh order in regard to the same.”

2. On 30th July, 2025, we have passed



the following order:

“Learned counsel for the appellant submits that the matter could be disposed of in terms of the judgment referred in **Hewlett Packard India Sales Pvt. Ltd. Vs. State of Assam and others** reported in (2012) 56 VST 472 : 2012 SCC OnLine Gau 903; **Canon India Private Limited Vs. State of T.N.** reported in 2013 SCC OnLine Mad 2038 : (2014) 305 ELT 255 and **Wep Peripherals Ltd. Lko. Throu Authorised Secy. Vs. Commissioner of Commercial Taxes U.P. Lucknow** reported in 2018 SCC OnLine All 5572.

2. Learned counsel for the State is requested to peruse the same and make her statement whether the matter is covered or not?

3. Re-list this matter on 06.08.2025.”

3. Today, learned counsel for the State, on instruction, submitted that the present matter could be disposed of in the light of our order dated 30.07.2025 with reference to judicial pronouncements.

4. Accordingly, Appellant has made



out a case so as to interfere with the impugned order dated 05.12.2023 passed in Appeal Case No. PT-178 of 2019 & PT-179 of 2019 (Memo No. 510, dated 14.12.2023) and they are set aside in the light of the principle laid down by the judicial pronouncement (cited supra).

5. Accordingly, Miscellaneous Appeal No. 231 of 2024 stands allowed.”

13. It transpires to us that the matters involved in the present appeal and Miscellaneous Appeal No.231 of 2024 are directly and substantially identical.

14. Therefore, the present miscellaneous appeal is hereby allowed in terms of the observation made in Miscellaneous Appeal No.231 of 2024 quoted above.

(Bibek Chaudhuri, J)

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2025
Transmission Date	

