

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.650 of 2022

CNR No. BRHC011058812022

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Ingram Micro-India Private Limited registered company having its registered office at the 5th floor, Building 1, Empire Plaza, LBS Marg, LBS Vikhroli (West) Mumbai- 400083 through its authorised representative Mr. Manas Mukherjee male aged about 49 years son of Madan Mohan Mukherjee resident of 5, N.N. Mukherjee, 1st Lane, P.O. and P.S. Uttarpada, District - Hooghly, West Bengal - 712258.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary Cum Commissioner Department of state Taxes, New Secretariat Bailey Road, Patna.
2. The Secretary Cum Commissioner, Department of State Taxes, New Secretariat Bailey Road, Patna.
3. The Joint Commissioner of State Taxes, Patliputra Circle, Patna.
4. The Assistant Commissioner of State Taxes (earlier Commercial Taxes Officer) Patliputra Commercial Taxes Circle, Patna. (2013-2014)

... .. Respondent/s

with

Miscellaneous Appeal No. 648 of 2022

CNR No. BRHC011058812022

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Ingram Micro-India Private Limited Registered Company having its Registered office at the 5th Floor, Building1, Empire Plaza, LBS Marg, LBS Vikhroli (West) Mumbai-400083 through its authorised representative Mr. Manas Mukherjee Male aged about 49 Years Son of Madan Mohan Mukherjee resident of 5, N.N. Mukherjee, 1st Lane, P.O. and P.S. Uttarpada, District-Hooghly, West Bengal-712258.

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Versus

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4. The Assistant Commissioner of State Taxes (earlier Commercial Taxes Officer) Patliputra Commercial Taxes Circle, Patna.

... .. Respondent/s

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Appearance :



(In Miscellaneous Appeal No. 650 of 2022)

For the Appellant/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Atal Bihari Pandey, Advocate
Mr. Alok Kumar Jha, Advocate
Mr. Mukund Kumar, Advocate
Ms. Amrita Dubey, Advocate
For the Respondent/s : Mr. Aditya Agrawal, Advocate
Mr. Rajeev Kumar Singh, GA-10
Ms. Vaishali, AC to GA-10
Mr. Vikash Kumar, SC-11

(In Miscellaneous Appeal No. 648 of 2022)

For the Appellant/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Atal Bihari Pandey, Advocate
Mr. Alok Kumar Jha, Advocate
Mr. Mukund Kumar, Advocate
Ms. Amrita Dubey, Advocate
For the Respondent/s : Mr. Aditya Agrawal, Advocate
Mr. Rajeev Kumar Singh, GA-10
Ms. Vaishali, AC to GA-10
Mr. Vikash Kumar, SC-11

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date: 09-10-2026

1. Introduction

I. These two miscellaneous appeals under Section 79 of the Bihar Value Added Tax Act, 2005 (hereinafter “the Act”) have been preferred by the appellant-dealer against the common judgment and order dated 30.08.2022 passed by the Commercial Taxes Tribunal, Bihar, Patna in Appeal Cases No. PT-159 of 2019, PT-160 of 2019 and connected matters.

II. By the said judgment the Tribunal disposed of the second appeals arising out of assessment orders passed under Sections 31 and 39(4) of the Act for the financial years 2012-13, 2013-14 and 2014-15. The Tribunal confirmed the



findings of the assessing authority and the first appellate authority on two principal issues:

(i) levy of differential tax on mobile chargers sold along with cellular phones in composite packs, and

(ii) classification of toner and cartridges as unspecified goods taxable at the residual rate, and remanded the remaining issues (claim of trade discount shown in TAR-IV, entry-tax set-off on opening and closing stock, reconciliation of D-IX declarations, and levy of interest) to the lower authorities for fresh examination in accordance with the directions contained in the judgment.

III. A supplementary affidavit has been filed on behalf of the appellant placing additional factual assertions and relying upon subsequent decisions of various High Courts (some of which are stated to have been affirmed by the Supreme Court) as well as recent coordinate Bench decisions of this Court on the issue of toner and cartridges.

IV. Since both appeals arise between the same parties, involve identical questions and emanate from a common judgment of the Tribunal, they have been heard together and are being disposed of by this common judgment.

2. Facts



I. The appellant is a company registered under the Bihar Value Added Tax Act, 2005 and the Central Sales Tax Act, holding VAT TIN 10050498055 and CST TIN 10050498152. It carries on business as a super-distributor of information technology products, computer peripherals and cellular phones of various brands within the State of Bihar, having its place of business within the jurisdiction of the Patliputra Circle, Patna.

II. For the financial years 2012-13, 2013-14 and 2014-15 the appellant was subjected to assessment under Sections 31 and 39(4) of the Act. The assessing authority raised demands principally on three counts:

(i) treating the mobile charger supplied as part of a composite pack with the cellular phone as an independent accessory taxable at the residual rate (13.5 %), thereby creating a differential tax liability of 8.5 % on a notional value ascribed to the charger by best judgment;

(ii) classifying toner and cartridges as unspecified goods taxable at the residual rate instead of treating them as computer peripherals or parts/accessories thereof under Entries 3 and 4 of Part II of Schedule III; and

(iii) disallowing certain claims relating to trade



discount shown under the head “any other claim” in TAR-IV, entry-tax set-off on closing stock, and differences arising from utilisation of D-IX declarations.

III. The appellant challenged the assessment orders before the Additional Commissioner of State Taxes (Appeals), Central Division, Patna. The first appellate authority, by orders dated 29.03.2019 and connected dates, confirmed the findings on the mobile-charger and toner/cartridge issues as well as on the trade-discount claim, while remanding or allowing certain other points.

IV. Aggrieved, the appellant preferred second appeals before the Commercial Taxes Tribunal. By the common judgment dated 30.08.2022 the Tribunal confirmed the adverse findings on the two classification issues (mobile charger and toner/cartridge) and remanded the remaining issues of trade discount, entry-tax set-off, D-IX reconciliation and interest for fresh examination. The calculation of demand treating the recovered amount as exclusive of tax was also upheld.

V. The present appeals under Section 79 of the Act are directed against the said judgment of the Tribunal insofar as it has gone against the appellant.



VI. In the supplementary affidavit the appellant has specifically asserted that it sold two distinct categories of goods:

(a) composite packs of cellular phone and charger under a single label and single MRP, on which tax was discharged at 5 %, and

(b) independent chargers and parts under separate invoices, on which tax was discharged at the residual rate of 13.5 %.

VII. It is claimed that the composite packs were never dismantled and that the assessing authority had no statutory authority to split the single-price pack and ascribe a notional value to the charger component.

3. Substantial Questions of Law that Survive for Adjudication

I. In view of the order dated 23.01.2025 directing the appellant to remove defect by adding substantial questions of law, and after considering the judgment of the Tribunal together with the subsequent remand of several issues, the following questions alone survive for determination by this Court:

(1) Whether the Tribunal was justified in law in



applying the decision of the Hon'ble Supreme Court in *State of Punjab v. Nokia India Pvt. Ltd.*, (2014) 16 SCC 410, to the facts of the present case and in upholding the levy of differential tax on mobile chargers sold as part of a single-MRP composite pack with cellular phones, or whether the said decision is distinguishable on the factual matrix pleaded by the appellant?

(2) Whether toner and cartridges are classifiable under Entries 3 and 4 of Part II of Schedule III of the Bihar Value Added Tax Act, 2005 ("Computer system and peripherals" and "parts and accessories" thereof) taxable at the lower rate, or whether they fall under the residual/unspecified entry taxable at 13.5 %?

(3) What is the effect of the Tribunal's remand of the remaining issues (trade discount under TAR-IV, entry-tax set-off, D-IX reconciliation, interest under Section 39(4), and calculation of demand) on the present appeals?

II. All other questions originally framed, relating to the alleged vagueness of the show-cause notice, premeditated mindset of the assessing authority, double taxation on entry-tax set-off, and the precise computation of interest, either stand concluded by the remand directed by the Tribunal or do



not give rise to any substantial question of law requiring determination at this stage.

4. Submissions on behalf of the Appellant

I. Learned counsel appearing for the appellant made the following submissions:

II. On the issue of mobile chargers sold in composite packs, it was contended that the decision of the Hon'ble Supreme Court in *Nokia (id)*, is clearly distinguishable on facts. In *Nokia (id)* the dealer itself had treated the charger as an accessory. In the present case, the appellant sold cellular phones and chargers in a single composite pack under one label and one MRP, without any separate price attribution. The phone was compatible only with the accompanying charger, and the warranty/guarantee conditions mandated use of the said charger. The dominant intention of both the seller and the purchaser was to buy and sell a functional cellular phone, of which the charger formed an integral and inseparable part. The pack was never dismantled. Independent chargers were sold separately under distinct invoices and were correctly subjected to tax at the residual rate of 13.5 %. The appellant had been fully transparent in discharging tax at 5 % on the composite packs and at 13.5 % on standalone chargers.



III. It was further argued that the Bihar Value Added Tax Act, 2005 contains no provision authorising the splitting of a single-price composite pack for the purpose of valuation and differential taxation. Reliance was placed on ***Bharat Sanchar Nigam Ltd. v. Union of India, (2006) 3 SCC 1***, to contend that only composite contracts falling within Article 366(29-A) of the Constitution can be artificially bifurcated. Support was also drawn from Rule 6(e) of the Legal Metrology (Packaged Commodities) Rules, 2011 (single MRP declaration), the Customs (Accessories Conditions) Rules, 1963, and Rule 3 of the General Rules for the Interpretation of the Import Tariff (essential-character test). The Tribunal, it was submitted, mechanically applied ***Nokia (Supra)*** without examining these distinguishing features or the subsequent decisions of various High Courts that had distinguished ***Nokia (Supra)*** on similar facts, namely, the Allahabad High Court decisions in ***Samsung India Electronics Pvt. Ltd. (Writ Tax No. 435 of 2016 decided on 01.08.2016 and the decision dated 18.01.2018)***, and the Karnataka High Court decisions in ***State of Karnataka v. Intex Technologies India Ltd., 2023 SCC OnLine Kar 90*** and ***State of Karnataka v. Micromax Informatics Ltd., 2023 SCC OnLine Kar 1724***. It was pointed



out that some of these decisions have been affirmed by the Hon'ble Supreme Court.

IV. On the classification of toner and cartridges, learned counsel submitted that these goods are squarely covered by Entry 3 ("Computer system and peripherals, electronic diaries") and Entry 4 ("Parts and accessories of serial Nos. 1, 2 and 3") of Part II of Schedule III. A printer is a computer peripheral; toner and cartridge are parts or accessories of the printer and, therefore, of the computer system. The express exclusion of toner and cartridge from the entry relating to printing ink does not take them out of the IT-products entries. Reliance was placed on the Madras High Court decisions in *Canon India Private Limited v. State of T.N., 2013 SCC OnLine Mad 2038*, the Gauhati High Court decision in *Hewlett Packard India Sales Pvt. Ltd. v. State of Assam, (2012) SCC OnLine Gau 903*, the Allahabad High Court decision in *Wep Peripherals Ltd., 2018 SCC OnLine All 5572*, and, more importantly, on two recent Division Bench decisions of this Court itself in *M/s Savex Technologies Pvt. Ltd. v. State of Bihar, M.A. No. 227 of 2024* and *M/s Savex Technologies Pvt. Ltd. v. State of Bihar, M.A. No. 231 of 2024*, which are stated to have decided the



identical issue in favour of the dealers.

V. It was next contended that whenever two reasonable views are possible, the view favourable to the assessee must be adopted (*Sneh Enterprises v. Commissioner of Customs, (2006) 7 SCC 714*). The Tribunal failed to consider the detailed written submissions, the factual distinctions from *Nokia (Supra)*, and the authorities cited by the appellant, rendering its judgment non-speaking and contrary to the settled principle that an appellate authority must deal with every substantial contention raised before it.

VI. On the remaining issues (trade discount, entry-tax set-off, D-IX reconciliation and interest), it was submitted that although the Tribunal has remanded them, the High Court ought to clarify the governing legal principles so that the remand does not become an empty formality. The calculation of demand treating the entire collection as exclusive of tax was also challenged.

VII. In sum, the appellant prayed that the impugned judgment of the Tribunal be set aside on the two classification issues and that the appeals be allowed.

**5. Submissions on behalf of the Respondents
(State)**



I. Learned Government Advocate appearing for the State of Bihar supported the impugned judgment of the Tribunal and made the following submissions:

II. On the question of mobile chargers sold in composite packs, it was contended that the issue is no longer res integra. The Hon'ble Supreme Court in *Nokia (Supra)* has authoritatively held that a mobile battery charger is an accessory and not a part of the cell phone, and that the mere fact of its being sold in a composite pack does not alter its character as an independent commercial commodity. The charger can be sold and used separately; packaging two distinct goods together cannot convert them into a single taxable commodity.

III. It was pointed out that a Division Bench of this very Court in *Samsung India Electronics Pvt. Ltd. v. State of Bihar (CWJC No. 3942 of 2015 and analogous cases, decided on 14.12.2016)* has already applied the ratio of *Nokia (Supra)* to composite packs under the Bihar Value Added Tax Act, 2005, and has rejected identical arguments based on single MRP, free supply and dominant intention. Judicial discipline requires that the said decision be followed.

IV. The attempt to distinguish *Nokia (Supra)* on the



ground that the present appellant did not admit the charger to be an accessory, or that the phone was exclusively compatible with the accompanying charger, or that warranty conditions mandated its use, was described as misconceived. These are commercial features that do not change the basic character of the goods. The Tribunal rightly observed that chargers of every brand perform the same function and remain accessories regardless of packaging.

V. Reliance placed by the appellant on subsequent decisions of the Allahabad and Karnataka High Courts was submitted to be of no assistance. Those decisions either turned on the limited question of reopening of assessments or proceeded on facts that cannot override a direct pronouncement of the Hon'ble Supreme Court and a coordinate Bench decision of this Court. Dismissal of special leave petitions against some of those judgments does not amount to affirmation of their reasoning on merits under Article 141 of the Constitution.

VI. On the classification of toner and cartridges, learned counsel supported the Tribunal's reasoning that these goods are consumables and not parts or peripherals. Just as a printer cannot function without paper, yet paper is not treated



as a part of the printer, and a motor vehicle cannot run without fuel, yet fuel is not a part of the vehicle, toner and cartridges are consumables that are periodically replaced. The express exclusion of “toner and cartridge” from the entry relating to printing ink in the Schedule indicates the legislative intent to keep them outside the lower-rate entries. The decisions of other High Courts turned on the language of different State schedules and cannot control the interpretation of the Bihar Schedule.

VII. It was further submitted that taxing statutes must be construed strictly by placing reliance on *Commissioner of Sales Tax, U.P. v. Modi Sugar Mills Ltd., AIR 1961 SC 1047*. Classification has to be determined according to the plain language of the Schedule entries and the residual entry. Commercial convenience, packaging practices or hardship to the dealer cannot justify departure from the statutory scheme.

VIII. On the procedural aspects, it was contended that the Tribunal’s order is a reasoned order that records the submissions of both sides and applies the binding precedent. The complaint of non-speaking order is without substance. The appellant fully participated in the assessment and



appellate proceedings; the allegation of vague show-cause notice or premeditated mindset is an afterthought.

IX. Finally, it was submitted that the Tribunal has already taken a balanced view by remanding the remaining issues (trade discount, entry-tax set-off, D-IX reconciliation and interest) for fresh examination. No interference is warranted with the confirmatory findings on the two classification issues. The appeals deserve to be dismissed.

6. Analysis

A. Mobile charger sold in composite pack:

Applicability and distinguishability of *Nokia (Supra)*

I. The central question is whether the mobile charger supplied as part of a single-MRP composite pack with the cellular phone is liable to be taxed separately at the residual rate, or whether the entire pack is taxable at the rate of 5 % applicable to cellular phones under Entry 14 of Part II of Schedule III of the Bihar VAT Act, 2005.

II. The Assessing Authority, the first appellate authority and the Tribunal have rested their conclusions primarily on the decision of the Hon'ble Supreme Court in *Nokia (Supra)*. The relevant observations of the said judgment read as under:



“15. The assessing authority, appellate authority and the Tribunal rightly held that the battery charger is not a part of the mobile/cellphone. If the charger was a part of cellphone, then cellphone could not have been operated without using the battery charger. But in reality, it is not required at the time of operation. Further, the battery in the cellphone can be charged directly from other means also like laptop without employing the battery charger, implying thereby, that it is nothing but an accessory to the mobile phone. The Tribunal noticed that as per the information available on the website of Nokia, the Company has invariably put the mobile battery charger in the category of an accessory which means that in common parlance also, the mobile battery charger is understood as an accessory. It has also been noticed by the Tribunal that a Nokia-make battery charger is compatible with many models of Nokia mobile phones and also many models of Nokia-make battery chargers which are compatible to a particular model of Nokia mobile phone, imparting various levels of effectiveness and convenience to the users.



19. In view of the aforesaid facts, we find that the assessing authority, appellate authority and the Tribunal rightly held that the mobile/cellphone charger is an accessory to the cellphone and is not a part of the cellphone. We further hold that the battery charger cannot be held to be a composite part of the cellphone but is an independent product which can be sold separately, without selling the cellphone. The High Court failed to appreciate the aforesaid fact and wrongly held that the battery charger is a part of the cellphone.”

III. The Hon’ble Supreme Court further held that merely making a composite package of cell phone and charger will not make it a composite good for the purpose of interpretation of the schedule entry.

IV. A Division Bench of this Court in ***Samsung India (Supra)*** considered the identical issue under the Bihar VAT Act. After noticing ***Nokia (Supra)***, this Court observed:

“Recently, the Supreme Court by its judgment dated 17.12.2014 in the case of State of Punjab and others vs. Nokia India Ltd. held that the mobile/cell phone charger is an accessory to cell phone and is not a part of the cell phone



and further held that the battery charger cannot be held to be a composite part of the cell phone but is an independent product which can be separately sold and accordingly, set aside the impugned order of the Punjab and Haryana High Court and confirmed the order passed by the Tribunal. The respective assessing officers of the petitioners thereafter issued notices on 23.01.2015 to the petitioners, referring to the decision of the Supreme Court stating that the charger and other goods sold along with the mobile phone come in the non-specified category but the petitioners had included their price in the value of mobile hand-set and have been paying tax at the rate of 5% and, therefore, they were directed to produce details of the sales of hand-set for the last four years, i.e., for the financial year 2009-10 till date by 05.02.2015, on failure of which further action would be taken under the provisions of the Act. Thereafter the notice was issued under Section 31 of the Act. On 25.02.2015, the petitioners filed their reply to the said notice stating that they had duly discharged their tax liability under the Act on the mobile phone sold with battery. However, by the



impugned orders dated 10.03.2015, 15.03.2015 and 21.03.2015, the plea of the petitioners was rejected and demand notices along with interest were issued. Aggrieved by the same, the petitioners have filed the present writ petitions.”

V. The coordinate Bench rejected the arguments based on single MRP, free supply of the charger and dominant intention, and applied the ratio of **Nokia (Supra)** to composite packs under the Bihar Act.

VI. The appellant seeks to distinguish **Nokia (Supra)** on the following grounds:

(a) the composite pack carried a single MRP and was sold under a single tax invoice;

(b) the cellular phone was compatible only with the charger supplied in the pack;

(c) the warranty/guarantee conditions required use of the accompanying charger;

(d) the appellant never treated or described the charger as an accessory; and

(e) the dominant intention of the parties was to sell and purchase a functional cellular phone.

VII. It is also contended that there is no statutory machinery in the Bihar VAT Act for splitting a single-price



composite pack. Reliance is placed on the following:

VIII. ***BSNL (Supra)***, wherein the Hon'ble Supreme Court held that only composite contracts covered by Article 366(29-A) of the Constitution can be artificially bifurcated for taxation; ordinary sale contracts cannot be so split. The relevant portion of the judgment reads as thus:

“44. Of all the different kinds of composite transactions the drafters of the Forty-sixth Amendment chose three specific situations, a works contract, a hire-purchase contract and a catering contract to bring them within the fiction of a deemed sale. Of these three, the first and third involve a kind of service and sale at the same time. Apart from these two cases where splitting of the service and supply has been constitutionally permitted in sub-clauses (b) and (f) of clause (29-A) of Article 366, there is no other service which has been permitted to be so split. For example, the sub-clauses of Article 366(29-A) do not cover hospital services. Therefore, if during the treatment of a patient in a hospital, he or she is given a pill, can the Sales Tax Authorities tax the transaction as a sale? Doctors, lawyers and other professionals render service in the course of which can



it be said that there is a sale of goods when a doctor writes out and hands over a prescription or a lawyer drafts a document and delivers it to his/her client? Strictly speaking, with the payment of fees, consideration does pass from the patient or client to the doctor or lawyer for the documents in both cases.”

IX. Rule 6(e) of the Legal Metrology (Packaged Commodities) Rules, 2011, which mandates declaration of a single maximum retail price on a package. The Rule reads as thus:

“6. Declarations to be made on every package.—(1) Every package shall bear thereon or on label securely affixed thereto, a definite, plain and conspicuous declaration made in accordance with the provisions of this chapter as, to-

(e) the retail sale price of the package [Ins. by G.S.R. 629(E), dated 23-6-2017 (w.e.f. 1-1-2018).] [shall clearly indicate that it is the maximum retail price inclusive of all taxes [Subs. by G.S.R. 779(E), dated 2-11-2021 (w.e.f. 1-10-2022).] [in Indian currency:]

Provided that for packages containing alcoholic beverages or spirituous liquor, the State Excise Laws



and the rules made thereunder shall be applicable within the State in which it is manufactured and where the State Excise Laws and rules made thereunder do not provide for declaration of retail sale price, the provisions of these rules shall apply:

[Ins. by G.S.R. 858(E), dated 7-9-2016 (w.e.f. 7-9-2016).] [Provided further that if the retail sale price of any essential commodity is fixed and notified by the Competent Authority under the Essential Commodities Act, 1955 the same shall apply.]”

X. The Customs (Accessories Conditions) Rules, 1963 (framed under Section 156 of the Customs Act, 1962), which provide that the same rate of duty is chargeable on the main article and the accessory when the accessory is compulsorily supplied with the article and its price is included in the price of the article. The Rules read as thus:

“In exercise of the powers conferred by Section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:-

- 1. These rules may be called the **Accessories (Condition) Rules, 1963.***
- 2. Accessories of and spare*



parts and maintenance or repairing implements for, any article, when imported along with that article shall be chargeable at the same rate of duty as that article, if the proper officer is satisfied that in the ordinary course of trade:—

(i) such accessories parts and implements are compulsorily supplied along with that article; and

(ii) no separate charge is made for such supply, their price being included in the price of the article.”

XI. Rule 3 of the General Rules for the Interpretation of the Import Tariff (essential-character test), as explained in ***Kemrock Industries and Exports Ltd. v. CCE, (2007) 9 SCC 52***. The relevant portion of the judgment reads as thus:

“6. As stated above, Chapter 39 deals with “plastics and articles thereof”. As stated above, under Heading 39.20 sheets of plastics, laminated, supported or combined with other materials stand covered as plastics and articles thereof. On the other hand, Heading 70.14 falls under Chapter 70, which refers to “glass and glassware”. It is not in dispute that the item in question is a composite item.



However, as found by the Department, in the above process, the glass fibre mat when impregnated with plastic gains certain amount of stiffness which helps in the manufacture of roofs and partitions. In the present case, since the article in question is a composite article, the test of essentiality shall apply. This test of essentiality refers to “essential character”. The test states that, if the manufactured goods has the essential character, mainly of stiffness, required for the manufacture of roofs, partitions, etc. then one has to treat the item in question as an article of plastic. In the present case, Rule 3(b) of the Rules for the interpretation of tariff entries would apply. The said Rule requires that composite goods, mixtures and goods put up in sets have to be classified on the classification of that material or component which gives to the product their essential character. In the present case, if we keep in mind the manufacture of roofs, partitions, etc. then the stiffness is the main attribute of such a product. The glass fibre mat when impregnated gives stiffness which helps in the manufacture of roofs, partitions, etc., e.g. in the context of an insulation paper



which is a composite of plastic and paper, the item will fall under Heading 39.01/06 of the previous Customs Tariff Act since plastic gives higher degree of insulation quality. Rule 3(b) requires classification based on the material which gives it the essential characteristics. This is the test of essentiality. The effect of the Tariff Schedule is to classify the products under different heads according to the character of the product. In interpreting a tariff entry, Rules for the Interpretation are helpful, particularly in cases of composite goods.”

XII. The principle that when two reasonable views are possible, the view favourable to the assessee should be preferred (***Sneh Enterprises, Supra***). The relevant portion of the said judgment reads as thus:

“24. While dealing with a taxing provision, the principle of “strict interpretation” should be applied. The court shall not interpret the statutory provision in such a manner which would create an additional fiscal burden on a person. It would never be done by invoking the provisions of another Act, which are not attracted. It is also trite that while two interpretations are



possible, the court ordinarily would interpret the provisions in favour of a taxpayer and against the Revenue.”

The appellant further relies on subsequent High Court decisions that have distinguished ***Nokia (Supra)***:

XIII. In ***Samsung India Electronics P. Ltd. v. State of U. P., 2016 SCC OnLine All 1539***, the Allahabad High Court observed that in ***Nokia (Supra)*** the dealer itself had treated the charger as an accessory, whereas the factual position of the petitioner was different, and held that reassessment proceedings initiated solely on the basis of ***Nokia (Supra)*** were not sustainable. The Court observed as under:

“9. On the submissions made and decision relied on, we have no hesitation in holding that all the material was before the authorities concerned. Judgment in State of Punjab v. Nokia India Pvt. Ltd. [2015] 77 VST 427 (SC) ; (2014) 16 SCC 410, could not have been followed so as to invoke the jurisdiction under section 29 of the Act because in the case on hand as far as Nokia was concerned, the phone charger was sold as a separate accessory and, therefore, apex court held that it is not part of mobile



phone. The battery was supplied with mobile phone and, therefore, battery charger was earlier classified as cell phone and it's part and that battery charger was sold as a separate entity and not as accessory. On merit, we hold that the petitioner placed before the respondents various facts to show that the petitioner was a single unit as a cell phone and that assessments, which were made, could not have been reopened on the basis of a subsequent judgment and same was bad in the eyes of law. Said notice on the basis of reason to believe is bad. All material was before assessing authority. Notices and impugned orders are in complete contravention of principles enunciated by apex court in the case of State of Uttar Pradesh v. Aryaverth Chawl Udyoug [2016] 91 VST 1 (SC), C. A. No. 6714 of 2009, decided on November 27, 2014, wherein apex court has laid down principles where doctrine of reason to believe can be invoked."

XIV. Similar reasoning appears in the later decision of the same High Court in ***Samsung India Electronics (P) Ltd. v. CCT, 2018 SCC OnLine All 5982***, where the Court ultimately held:



“29. *On an over all consideration of the aforesaid aspects, this court finds itself unable to hold that Nokia [2015] 77 VST 427 (SC) ; (2014) 16 SCC 410 is a precedent at all on the question of a composite contract being subjected to tax.”*

XV. The Karnataka High Court in ***Intex (Supra)*** and ***Micromax (Supra)*** has also taken a view favourable to the dealers on facts similar to those pleaded by the present appellant. In ***Intex (Supra)***, the Court distinguished ***Nokia (Supra)*** on the ground that Entry 60(6)(g) of Schedule B of the Punjab VAT Act used the expression “Cellular Telephone” and did not mention accessories for the purpose of taxing the product at four per cent. In contrast, the Karnataka VAT Act used the expression “and parts thereof”, which, according to the Court, made it clear that the charger formed a composite part of the package. The relevant paragraph of ***Intex (Supra)*** is reproduced below:

“18. *As noticed hereinabove, in entry No. 60(6)(g) of the Punjab VAT Act, the expression used is "cellular telephone" whereas in the Notification issued under KVAT Act, the words used are "and parts thereof". Further, the parts falling under heading 8843, 8825, 8527*



or 8528 have been specifically excluded. It is relevant to notice that, battery charger which falls under entry 8504 40 30 under the CET Act and CT Act, has not been excluded. This makes it clear that charger is a composite part in the package. Thus, the intention of the Revenue is unambiguous that the notification was applicable for telephone sets and parts thereof which includes charger. Therefore, in our considered view, the entries in Punjab VAT Act and the KVAT Act are different and the entry under the Punjab VAT Act is limited only to cellular telephones in contradistinction to the notification under KVAT Act.”

XVI. It is stated that the latter decision has been affirmed by the Hon’ble Supreme Court by dismissal of the special leave petition.

XVII. We have given our anxious consideration to the rival submissions and the authorities cited.

XVIII. Judicial discipline obliges us to follow the decision of a coordinate Bench of this Court in the ***Samsung batch (Supra)*** unless it is demonstrated to be per incuriam or requires reconsideration by a larger Bench. No such case has been made out.



XIX. The factual distinctions sought to be drawn from *Nokia (Supra)* do not, in our opinion, take the present case out of the ratio of that decision. The Hon'ble Supreme Court was fully conscious that the charger was being sold in a composite pack. It nevertheless held that the charger retained its character as an independent accessory. Features such as exclusive compatibility, warranty conditions or a single declared MRP are commercial attributes; they do not alter the basic nature of the goods as determined by the Hon'ble Supreme Court. The appellant's own conduct in selling standalone chargers at the residual rate of 13.5 % only reinforces the position that the charger is a distinct commercial commodity.

XX. The argument based on absence of statutory machinery for splitting a composite pack is attractive at first blush but cannot prevail. Once the Hon'ble Supreme Court has declared that the charger is a separate taxable commodity, the residual entry in the Schedule is attracted. The valuation of that component by best judgment is essentially a question of fact. No material was placed before the Tribunal to demonstrate that the notional value adopted by the Assessing Authority was arbitrary or perverse.



XXI. The decisions of the Allahabad High Court and the Karnataka High Court turned on the specific language of the schedule entries under the U.P. VAT Act and the Karnataka VAT Act respectively. Those entries contained phraseology that the respective High Courts found materially different from Entry 60(6)(g) of the Punjab VAT Act considered in *Nokia (Supra)*. The Bihar Schedule, however, is differently worded. Moreover, a coordinate Bench of this Court has already examined the issue under the Bihar VAT Act in the *Samsung batch (Supra)* and has applied the ratio of *Nokia (Supra)*. In these circumstances, the decisions of the other High Courts, rendered in the context of differently worded schedule entries, cannot be pressed into service to take a view contrary to the binding precedent of the Hon'ble Supreme Court and the decision of the coordinate Bench of this Court.

XXII. The appellant has also relied upon the decision of the Hon'ble Supreme Court in *CCE v. Delhi Insulation Electricals Pvt. Ltd., (2008) 12 SCC 45*, on the meaning of "parts" of an article, and on *CIT, Bangalore v. B.C. Srinivasa Setty, (1981) 2 SCC 460*, to contend that in the absence of a specific statutory provision authorising the splitting of a composite pack, no differential tax can be levied



on the charger component.

XXIII. In ***Delhi Insulation Electricals (Supra)*** the Court was concerned with the distinction between integral parts and mere accessories in the context of the Central Excise Tariff. The relevant paragraphs of the said judgment are reproduced as under:

“17. After considering in detail, the difference between the “accessories” and “parts”, this Court in Pragati Silicons [(2007) 9 SCC 470 : (2007) 211 ELT 534] came to the conclusion that “accessory” is something supplementary or subordinate in nature and need not be essential for the actual functioning of the product.

18. Chapter Heading 94.01 covers all types of seats and not only the seats of a car and a seat is complete even without the rail assembly front seat adjuster/assembly slider seat and rear back lock assembly. They are not essential parts of the seat. Chapter Heading 94.01 covers only the parts of seats and not accessories to the seats. A “part” is an essential component of the whole without which the whole cannot function.”

XXIV. The decision turned on the functional and



commercial identity of the goods in question. It does not lay down a universal rule that every item supplied along with a principal article must be treated as its part.

XXV. In ***B.C. Srinivasa Setty (Supra)*** the Court held that the transfer of goodwill of a newly commenced business did not attract capital gains tax because the charging provision did not clearly bring such an asset within its net. The relevant paragraph of the said judgment is reproduced as under:

“10. Section 45 charges the profits or gains arising from the transfer of a capital asset to income tax. The asset must be one which falls within the contemplation of the section. It must bear that quality which brings Section 45 into play. To determine whether the goodwill of a new business is such an asset, it is permissible, as we shall presently show, to refer to certain other sections of the head, “Capital gains”. Section 45 is a charging section. For the purpose of imposing the charge. Parliament has enacted detailed provisions in order to compute the profits or gains under that head. No existing principle or provision at variance with them can be applied for determining the chargeable profits and gains. All transactions encompassed by



Section 45 must fall under the governance of its computation provisions. A transaction to which those provisions cannot be applied must be regarded as never intended by Section 45 to be the subject of the charge. This inference flows from the general arrangement of the provisions in the Income Tax Act, where under each head of income the charging provision is accompanied by a set of provisions for computing the income subject to that charge. The character of the computation provisions in each case bears a relationship to the nature of the charge. Thus the charging section and the computation provisions together constitute an integrated code. When there is a case to which the computation provisions cannot apply at all, it is evident that such a case was not intended to fall within the charging section. Otherwise one would be driven to conclude that while a certain income seems to fall within the charging section there is no scheme of computation for quantifying it. The legislative pattern discernible in the Act is against such a conclusion. It must be borne in mind that the legislative intent is presumed to run uniformly through the entire conspectus



of provisions pertaining to each head of income. No doubt there is a qualitative difference between the charging provision and a computation provision. And ordinarily the operation of the charging provision cannot be affected by the construction of a particular computation provision. But the question here is whether it is possible to apply the computation provision at all if a certain interpretation is pressed on the charging provision. That pertains to the fundamental integrality of the statutory scheme provided for each head.”

XXVI. The principle that a charging provision must be clear and unambiguous is well settled. However, once the Hon’ble Supreme Court in **Nokia (Supra)** has declared that a mobile charger is a distinct taxable commodity even when sold in a composite pack, the residual entry under the Bihar VAT Act is attracted. The absence of a separate machinery provision for splitting does not nullify the classification already determined by the Hon’ble Apex Court.

XXVII. These decisions, therefore, do not advance the case of the appellant beyond what has already been considered.

XXVIII. The ancillary reliance on **BSNL (Supra)**,



the Legal Metrology Rules, the Customs Accessories Rules and the essential-character test under the General Rules of Interpretation operates in different statutory contexts and cannot control the classification of goods under a State VAT schedule in the face of a specific Hon'ble Supreme Court's decision on the very commodity in question. The principle of strict construction of taxing statutes as propounded in *Modi Sugar Mills (Supra)* further supports adherence to the plain consequence of the *Nokia (Supra)* ruling.

XXIX. We therefore hold that the Tribunal was right in following *Nokia (Supra)* and the 2016 decision of this Court. The mobile charger sold as part of a composite pack remains an accessory taxable at the residual rate. The challenge to this finding fails.

B. Classification of toner and cartridges under Schedule III

I. The second live controversy is whether toner and cartridges are liable to be taxed at the residual rate of 13.5 % as unspecified goods, or whether they fall under Entries 3 and 4 of Part II of Schedule III of the Bihar Value Added Tax Act, 2005.

II. Entries 3 and 4 of Part II of Schedule III read as



under:

“3. Computer system and peripherals, electronic diaries.

4. Parts and accessories of serial Nos. 1, 2 and 3.”

III. Entry 97 of the Schedule (as it stood at the relevant time) provided:

“Printing ink excluding toner and cartridge.”

IV. The residual/unspecified entry attracted the higher rate of 13.5 %.

V. The Assessing Authority and the first appellate authority treated toner and cartridges as unspecified goods. The Tribunal affirmed this view with the following reasoning:

“22. Toner and Cartridges are not exclusively used in computer printers but they are used as consumables of photo copier machines etc. too. Computer printer cannot work without toner and cartridges and therefore, it is a part of computer peripherals as argued on behalf of appellant, but we do not agree with this theory. Computer printer cannot work without computer paper too. We can't have a print without using computer paper in computer printer. Whether computer paper shall also be a part of computer printer? The answer is no.



Motor vehicle cannot move/or work without using petrol, diesel, CNG etc. It does not mean that petrol, diesel etc. are the parts of Motor vehicle.

23. Thus, we are of the view that toner and cartridge are not computer peripheral devices and neither parts of computer printer. Toner and Cartridges are in fact consumable of printers and that is why toner and cartridges have been excluded from printing ink of the general entry no. 97 of part 1 of Schedule-III of the Bihar Value Added Tax Act, 2005, keeping the toner and cartridge under residuary entry.”

VI. The appellant contends that a printer is a computer peripheral covered by Entry 3, and that toner and cartridge, being essential for the functioning of the printer, are parts or accessories of the printer and therefore fall under Entry 4. Reliance is placed on: ***Hewlett Packard India (Supra)***.

VII. Gauhati High Court held that cartridges and toner are integral parts of the printer. The relevant paragraphs of the judgment are reproduced as under:

“12. The learned counsel for the Revenue submitted that in Part A of the Second Schedule, entry 50 provides for



"printing ink excluding toner and cartridges" and thus expression toner and cartridges has been expressly used wherever so intended and on that ground the goods in question should be treated as falling the residue entry.

13. After due consideration, we are of the view that the question has to be answered in favour of the assessee. The items in question are integral part of printer which undisputedly is covered by entry 3. Thus, we are in agreement with the view taken by the Delhi High Court. Principle laid down in judgments of the honourable Supreme Court about interpretation of "accessory" also lends support to the contention of the assessee.

14. As regards the contention raised on behalf of the Revenue that toners and cartridges have been specifically used in Part A, for exclusion from entry 50, and the same could not be impliedly included under entry 4 of Part B of the Second Schedule, we are of the view that scope of entry 4 of Part B of the Second Schedule is much wider. While exclusion may be considered necessary from printing ink in entry 50 of Part A (Part A deals with "general" goods), specific mention thereof may not be



necessary in general and wide entry in entry 4 of Part B—parts and accessories of computer systems and peripherals (Part B deals with IT goods).”

VIII. **Canon India (Supra)**, which treated inkjet and toner cartridges as parts and accessories of printers. The operative portion of the judgment reads as thus:

“43. In the result, the writ petitions are allowed holding that ink jet cartridges and toner cartridges are parts and accessories of printer which is a peripheral to a computer system and would be covered under Entry Nos. 22 & 24 of serial No. 68, Part B of First Schedule to the Tamil Nadu Value Added Tax Act, 2006. No costs. Consequently, connected miscellaneous petitions are closed.”

IX. **Wep Peripherals (Supra)**, wherein the Allahabad High Court held that ribbon/toner cartridges are parts of the printer and liable to tax at the same rate as the printer. The operative portion of the judgment reads as thus:

“14. In view of the what has been discussed hereinabove, this Court is of the view that the Tribunal has not considered the matter in the correct perspective and approach, thereby,



rendering its judgment erroneous and liable to be interfered with. It has simply been persuaded by the decision of the Single Judge Bench of this Court in the case of Commissioner of Sales Tax, U.P. v. Punjab Gramophone House, Aminabad Park, Lucknow reported in 1978 U.P.T.C. 664 and other decisions and has merely observed that printer ribbon cartridge being consumable item is not part of the printer which by itself can not be the determining factor as is evident from the above discussion. The question involved is answered accordingly. Considering the relevant aspects of the matter as noticed hereinabove, its judgment is set-aside. The matter is remanded back to it for reconsideration in the light of the above observations but with expedition. It is expected that the proceedings after remand shall be concluded by the Tribunal within a period of six months. The trade tax revision is allowed in part.”

X. The recent Division Bench orders of this Court in ***M.A. No. 231 of 2024*** and ***M.A. No. 227 of 2024***, which set aside residual-rate taxation by following the above judgments.

XI. The appellant also invokes the common-parlance test laid down in ***CCE v. Wockhardt Life Sciences Ltd.***,



(2012) 5 SCC 585, and the principle that a residuary entry is attracted only when no specific entry covers the goods. The relevant paragraph of the said judgment is reproduced as under:

“37. A commodity cannot be classified in a residuary entry, in the presence of a specific entry, even if such specific entry requires the product to be understood in the technical sense (see Akbar Badrudin Giwani v. Collector of Customs [(1990) 2 SCC 203 : 1990 SCC (Cri) 291] and Commr. of Customs v. G.C. Jain [(2011) 12 SCC 713]). A residuary entry can be taken refuge of only in the absence of a specific entry; that is to say, the latter will always prevail over the former [see CCE v. Jayant Oil Mills (P) Ltd. [(1989) 3 SCC 343 : 1989 SCC (Tax) 423] , HPL Chemicals Ltd. v. CCE [(2006) 5 SCC 208] , Western India Plywoods Ltd. v. Collector of Customs [(2005) 12 SCC 731] and CCE v. Carrier Aircon Ltd. [(2006) 5 SCC 596]].”

XII. We have given our careful consideration to the statutory language, the reasoning of the Tribunal, and the authorities cited.



XIII. The starting point of interpretation must be the language of the Schedule and the legislative intent discernible therefrom. Entry 97 specifically deals with “Printing ink excluding toner and cartridge.” The express exclusion of toner and cartridge from the printing-ink entry is a clear legislative pointer. If the legislature had intended these goods to fall under the IT-products entries (Entries 3 and 4), it would have been wholly unnecessary to carve them out of the printing-ink entry and leave them to be governed by the residual entry. The exclusion is not otiose; it indicates that toner and cartridges were deliberately kept outside the lower-rate entries.

XIV. The functional test and common-parlance understanding also support the residual classification. Toner and cartridges are consumables that are periodically exhausted and replaced. They do not form a permanent or integral component of the printer in the sense in which a drum unit, fuser assembly or print head might. The analogy drawn by the Tribunal with paper (without which a printer cannot produce output) and with fuel (without which a motor vehicle cannot run) is apposite and has not been satisfactorily answered by the appellant. Neither paper nor fuel is ever treated as a “part” or “accessory” of the machine. The same logic applies with



equal force to toner and cartridges.

XV. The decisions of the Madras, Gauhati and Allahabad High Courts turned on the specific language of the respective State schedules. Those schedules either contained a wider definition of “computer peripherals” or did not have an express exclusion of the kind found in Entry 97 of the Bihar Schedule. They cannot control the interpretation of the Bihar entries.

XVI. The appellant has placed strong reliance on the decision of the Madras High Court in *Canon India (Supra)*, wherein inkjet and toner cartridges were held to be parts and accessories of printers and therefore entitled to the lower rate under the relevant entries of the Tamil Nadu VAT Act. The Special Leave Petition preferred by the State of Tamil Nadu against the said judgment were dismissed by the Hon'ble Supreme Court on 14.07.2017 after hearing counsel and perusing the material, with the observation that the Court did not find any legal and valid ground for interference. While the said dismissal is a relevant circumstance, the Madras High Court's decision turned on the language of the schedule entries under the Tamil Nadu VAT Act. The Bihar Schedule contains a material point of distinction: Entry 97 expressly provides for



"Printing ink excluding toner and cartridge." This specific legislative exclusion of toner and cartridge from the printing-ink entry is a clear indication that the Bihar legislature did not intend these goods to be brought under the lower-rate entries applicable to computer systems, peripherals, parts and accessories. No comparable exclusion of this nature formed the basis of the decision in *Canon India (Supra)*.

XVII. Classification of goods under a taxing statute is governed by the language of the particular schedule. A decision rendered on the wording of one State's enactment cannot automatically control the interpretation of another State's schedule when the statutory text differs in a material particular. Once it is found that the Madras High Court's decision is not applicable to the present case in view of the distinctive language of the Bihar Schedule, the question of the Hon'ble Supreme Court having declined to interfere with that decision does not arise for consideration. The express exclusionary language of Entry 97 of the Bihar Schedule must, therefore, be given its full effect.

XVIII. As regards the recent orders of this Court in *M.A. No. 231 of 2024* and *M.A. No. 227 of 2024*, the relevant portions may be usefully extracted.



XIX. In *M.A. No. 231 of 2024*, this Court on 30.07.2025 passed the following order:

“1. 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. Ommissioner 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?”

Thereafter, on 06.08.2025, this Court recorded:

“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.”

XX. M.A. No. 227 of 2024 was disposed of on the same lines, this Court (of which one of us was a party) observing that the issue involved was directly and substantially identical.

XXI. It will be seen that the aforesaid matters were disposed of largely on the concession of the learned counsel for the State and by following the decisions of the Gauhati, Madras and Allahabad High Courts. There is no detailed independent examination of the language of the Bihar Schedule, particularly the significance of the express exclusion of “toner and cartridge” from the printing-ink entry (Entry 97). Those orders, therefore, do not contain a reasoned declaration that toner and cartridges necessarily fall under Entries 3 and 4 of Part II of Schedule III of the Bihar VAT Act after considering the exclusionary language of the local statute. In these circumstances, the present Bench is not



precluded from independently examining the statutory scheme and the legislative intent.

XXII. The principle of strict construction of taxing statutes, reiterated in *Modi Sugar Mills (Supra)*, requires that the charge must be expressed in clear and unambiguous language. Where the Schedule itself contains an express exclusion and the goods answer the description of consumables rather than parts or accessories, the residual entry is rightly attracted.

XXIII. Applying the above principles, we are of the opinion that toner and cartridges are more appropriately classified under the residual entry and are liable to tax at the higher residual rate.

XXIV. The finding of the Tribunal on this issue is therefore affirmed.

C. Remaining issues (trade discount, entry-tax set-off, D-IX reconciliation, interest and demand calculation) & effect of Tribunal's remand

I. The Tribunal, after detailed consideration, remanded the following issues to the lower authorities for fresh examination:

(i) the claim of trade discount shown under the head



“any other claim” in TAR-IV;

(ii) entry-tax set-off on opening and closing stock;

(iii) differences arising from utilisation of D-IX
declarations / road permits; and

(iv) the levy of interest under Section 39(4) of the
Act.

II. On the trade-discount claim the Tribunal correctly observed that a genuine post-sale discount or target-based incentive is not a taxable event, but that the factual foundation and supporting evidence must be verified. The matter has therefore been rightly remanded.

III. On entry-tax set-off the Tribunal has given a clear exposition of the second proviso to Section 3(2) of the Bihar Tax on Entry of Goods Act, 1993, that set-off is available only when VAT liability is actually incurred on the sale or manufacture and sale of the imported scheduled goods. Goods remaining in closing stock do not generate a set-off in that year, and the corresponding credit must be examined in the succeeding year against the opening stock. The direction protects against both denial of legitimate credit and double disallowance. No further clarification is required.

IV. On the D-IX / road-permit differences the



Tribunal has rightly deprecated the use of pure presumptions. It has directed a detailed verification against the books of account and other contemporaneous documents, holding that tax can be imposed only if actual suppression or misuse is established. Mere irregular generation of multiple declarations, without proof of misuse, is not sufficient to fasten tax liability. The direction is sound and requires no interference.

V. The question of interest under Section 39(4) has been left open for recomputation after the remanded issues are decided. The statutory provision fastens liability when any of the three specified conditions is satisfied; it does not require a separate finding of wilful default. The Tribunal's approach is in accordance with the plain language of the section.

VI. As regards the calculation of demand, the Tribunal has rejected the contention that the amount collected by the dealer is tax-inclusive. Under the scheme of the Bihar VAT Act, tax is collected under a separate heading and is not embedded in the sale price for the purpose of computation. We find no error in this conclusion.

VII. Since all the above issues have already been remanded with adequate guidance, no substantial question of



law survives for determination by this Court at the present stage. The Assessing Authority shall re-examine these issues in accordance with the directions of the Tribunal and the observations made in this judgment, and shall recompute the demand for the relevant years after giving the appellant a reasonable opportunity of hearing.

D. Procedural complaints (non-speaking order, vague show-cause notice, natural justice)

I. The appellant has raised several procedural grievances. It is contended that the show-cause notice issued under Section 31 of the Act was vague and reflected a premeditated mindset; that the first appellate order was non-speaking; and that the Tribunal's judgment fails to deal with the written submissions and the authorities cited by the appellant, thereby violating the principles of natural justice and the settled rule that an appellate authority must address every substantial contention raised before it.

II. We have examined the record in the light of these submissions.

III. As regards the show-cause notice, the appellant fully participated in the assessment proceedings, filed replies, and produced documents. No prejudice has been



demonstrated. The allegation that the notice was vague or that the Assessing Authority had a closed mind remains an unsubstantiated assertion. Participation without protest at the relevant stage considerably weakens the present challenge.

IV. On the complaint that the Tribunal's order is non-speaking, it is true that an appellate authority is obliged to consider the material contentions and authorities placed before it. A reading of the impugned judgment shows that the Tribunal did record the distinguishing features urged in respect of the *Nokia (Supra)* decision and the submissions on classification of toner and cartridges. It thereafter rejected those contentions by relying on the binding precedent of the Hon'ble Supreme Court and by applying a functional/consumable test. While the discussion could have been more elaborate, particularly with reference to the High Court decisions cited by the appellant, the order cannot be characterised as a cryptic or non-speaking one that discloses total non-application of mind. The deficiency, if any, is not of such a nature as to warrant a wholesale remand on this ground alone, especially when this Court has independently examined the two classification issues on merits.

V. The principles of natural justice are not abstract



absolutes; they are meant to prevent prejudice. In the present case the appellant had full opportunity at every stage, be it assessment, first appeal and second appeal to present its case. The procedural complaints, therefore, do not furnish an independent ground for interference.

VI. Consequently, the challenge based on alleged violation of natural justice and non-speaking character of the orders is rejected.

7. Conclusion and Operative Order

In view of the foregoing discussion, we record our conclusions as under:

(i) The finding of the Tribunal upholding the levy of differential tax on mobile chargers sold as part of composite packs with cellular phones, by applying the decision of the Hon'ble Supreme Court in *Nokia (Supra)*, and the coordinate Bench decision of this Court in the *Samsung batch (Supra)*, is affirmed. The challenge to this finding is rejected.

(ii) The finding of the Tribunal classifying toner and cartridges as unspecified goods taxable at the residual rate is also affirmed. Toner and cartridges do not fall under Entries 3 and 4 of Part II of Schedule III of the Bihar Value Added Tax Act, 2005, and are liable to be taxed at the residual rate. The



challenge to this finding is rejected.

(iii) The remaining issues relating to trade discount under TAR-IV, entry-tax set-off on opening and closing stock, reconciliation of D-IX declarations, levy of interest under Section 39(4), and calculation of demand, having already been remanded by the Tribunal, shall be examined afresh by the Assessing Authority in accordance with the directions contained in the impugned judgment and the observations made in this judgment. The appellant shall be afforded a reasonable opportunity of hearing.

(iv) The Assessing Authority shall recompute the tax, interest and other liabilities for the financial years 2012-13 and 2013-14 in the light of the findings recorded above and the outcome of the remanded proceedings, and shall issue a fresh demand notice within a period of three months from the date of receipt of a copy of this judgment.

(v) Since the present appeals do not challenge the Tribunal's order insofar as it relates to the financial year 2014-15, this Court makes no observation or direction with respect to the said year.

(vi) The appeals are dismissed.

(vii) There shall be no order as to costs.



We place on record our appreciation for the valuable assistance rendered by our Judicial Clerks, Shri Aditya Shekhar and Shri Ribhava Raj, in the preparation of this judgment.

(Bibek Chaudhuri, J)

Rana Vikram Singh, J: I agree.

(Rana Vikram Singh, J)

skm/-

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