

evsj vt`k mpcog tKvU©
nvBtKvU©efvM

(t©ukvj Avi vRb`vj Rpi mW/Kkvb)

i xU wcuWkb bs 1190/2009

Bb w` g`vUvi m Adt

Bnv evsj vt`k msweavtbi 102 Abt`Q` Abymvti GKwU Avte` bcT ;

Ges

Bb w` g`vUvi Adt

-----` i Lv`Í Kvi x|

ebvg

evsj vt`k Ms

----- cÍZev` xMY|

Rbve gbwRj tgvit m`, G`vWtftvKvU

-----` i Lv`Í Kvi x cft|

Rbve gy`Í vdv Rvgvb Bmj vg,
tWcuW A`vUviY© tRbvftj

----- cÍZev` x mi Kvi cft|

i bvbv t Rj vB 14, 2009 Bs

i vq c0vb t Rj vB 14, 2009 Bs|

Dcu`Z t

wePvi cuZ Rbve G, we,Gg, Lvqi`j nK

Ges

wePvi cuZ Rbve tgvv ggZfvR Dwi` b Avnt`q`

wePvi cuZ G,we,Gg, Lvqi`j nK t

ti vMx` i Dci gj` msthvRb Ki Avtvc Gi weavb Gi %eazv P`vtj A` Kvi qv A` i xU tgvKÍ gwU `vtqi Kiv nBqvftQ|

` i Lv`Í Kvi xMY mKtj B evsj vt`k mpcog tKvU© AvBbRvex| Zvrviv evsj vt`tki RbMftYi Rvex I `v` i q`v Kvi evi tcvYv nBtZ GB Rb`v`_gj` K i xU tgvKÍ gwU `vtqi Kvi qvftQ|

` i Lv`Í Kvi xMY Zvrvit` i ` i Lv`Í wbt`b Ktjb th gj` msthvRbx Ki AvBtbi w0Zxq Zdmxtj gj` msthvRb Ki nBtZ Ae`vniZ c0B tmev mgn eYv Kiv nBqvftQ wKŠ` mgvR Kj`vY gj`K tmev wktivbtgi Avl Évq wPwKrmv c0Z0vb,`šÍ wPwKrmv tK`ª Ges c`v`j wRK`vj j`vefti Uix Ae`vniZ c0B tmev mgftni Avl Zv einFZ ivLv nq| thtnZi mj`tf wPwKrmv c0B RbMftYi msweambK AwaKvi wKŠ` w0Zxq Zdmxtj Dctiv³ kã`uj wftqvRtbi dtj tiwMft` i Dci A%eafvte D³ Ki Avtvtci Kvitb ` i Lv`Í Kvi xMY c0Zev` xMftbi eivei D³ Kivtvc ewZj Abtva Kvi qv 10-02-2009Zwi tL GKwU Demand of justice tbnWk Rvix Ktjb (G`vfbKpvi - wv) | wKŠ` tKvb dtj`v` q bv nl qvq ` i Lv`Í Kvi x A` i xU tgvKÍ gwU `vtqi

Kwi tj AÍ Av`vj Z evsj v`k msweavtbi 102 Abt`Q` Abjvnti cãZev`xMY eivei 15-2-2009 Zwi tL vbgvj wLZ Rule NISI Rvix Ktib t

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the insertion of the word “wPwKrmv cãZõvb, `šÍ wPwKrmv tK`a Ges c`v_j wRK`vj j`vei Uix” inside the bracket of para 2(K) of 2nd schedule of VAT Act 1991. should not be declared void and illegal as being obstruction to the improvement of public health as well as beyond the scope of Fundamental Principles of State Policy of the Constitution and/or pass such other or further order or orders as to this Court may seem and proper.

The Rule is made returnable within 2(two) weeks from date. The matter is fixed for hearing on 9.3.2009

Requisites to be put in at once.”

4bs cãZev`x c`f` 28-04-2009 Zwi tL nj dKZ GKwJ GwdtWwrfU `wLj KiZt ixU tgvKÍ gvg cãZõvšÍ Zv Ktib |

Rbve gbwRj tgvit`m, G`wWt`fvtkU, `iLv`Í Kvi xMY c`f` e`e` Dc`vcb Ktib, Aci w`tk Rbve gv`vch Rvgvb Bmj vg, tWcyJ A`vUY`Rvbtij 4 bs cãZev`x c`f` e`e` Dc`vcb Ktib |

Rbve gbwRj tgvit`m, `iLv`Í Kvi xMY c`f` w`A G`wWt`fvtkU gtnv`q w`te`b Ktib th msweavtbi w`Zxq fvtM ivó` cwi Pj bvi gj bwxZ mgr eY`v Kiv nBqfvtkQ| D`3 fvtM Aew`Z 18 Abt`Q` evsj v`tki RbM`Yi `vt`i DbwZ mvabtk ivtoí Ab`Zg c`õ_wgK `wqZi l KZ`e` ewj qv tNvl bv Kwi qvtQ| Kv`RB ivó` tKvb Ae`vtZB Ggb tKvb AvBb Kwi tZ cvti bv hvnv AvZ`g vbeZvtK AwaKZi Któ cwiZZ Ktib | wZvb Avi l w`te`b Ktib th evsj v`tki teiki fM gvbl B`wi`a mxgvi w`tp emevm Ktib | Zvnt`i Rb` `vfwek Rxeb avibB A`tk mgq `tmva` ntq cto, tmt`f` cwi evti i tKn Amy` ntq cotj, mgM` cwi evi GKwJ wech`f`i g`j cto Ges Zvnt`i c`f` A`tk mgtqB wPwKrmv Li`Pi Dci gj` msthvRb Kvi Avtvc 18 Abt`Q` i cKZ gg`vYxi mnwZ msnw`l` |

Aci w`tk, Rbve gv`vch Rvgvb Bmj vg, w`A tWcyJ A`vUY`Rvbtij gtnv`q w`te`b Ktib th evsj v`tki GKwJ Abp`Z` t`k, Bnvi Dbq`b Kv`h`g cwi Pj bvi Rb`B gj` msthvRb Kiv Avtvc c`õ_qvRbxqZv t`Lv w` qvtQ| Zvnt`ovov , th`tnZi wPwKrmv cãZõvb, `šÍ wPwKrmv tK`a Ges c`v_j wRK`vj j`vei Uix Zvnt`i i wPwKrmv l wPwKrmv m`õ_xq tmev c`õ_vbi wecixZ webwgq gj` c`õvb Ktib weavq D`3 g`j`i Dci gj` msthvRb Ki AvtvcZ nq | wZvb etj b th, wPwKrmv tmev `vZe` wfv`É`Z ev webvgtj` c`õvb m`e` bq, Zvi cti l Dcti v`3 weavb e`wZti tK mavi Y wPwKrmv LvZtK gj` msthvRb Ki ew`f`Z ivLv nBqvtQ |

`iLv`Í, msthvRZ KivRw, 28-04-2009 Zwi tL nj dKZ GwdtWwrfW Bb A`tcwRkvb Ges Df`q c`f`i e`e` keb Kiv nBj |

c`õ_xqgvb nq th, 12-06-1991 Zwi tL 1991-92 evrmwi K evtRU e`3Zvq Z`w`šÍ b A`_` cwi KÍ bv gš` 1j v Rj vB 1991 Zwi L t`_tk gj` msthvRb Ki Avtvc m`f`U me`c`õ_g BwZ c`õvb Ktib | wZvb etj b th 1j v Rj vB ntZ wevfbenvti i we`mq Ki we`jvc Kwi qv GKwJ Avf`benvti gj` msthvRb Kiv c`õ_Z` Kiv nBtZtQ |

c`õ_tg gj` msthvRb Ki Aa`v`k, 1991 (Aa`v`k bs 26, 1991) Rvix Kiv nq | AZtci, gj` msthvRb Ki AvBb, 1991 (1991 m`bi 22 bs AvBb), 10 Rj vB 1991 Zwi tL evsj v`tki tM`RtU c`Kw`kZ nq | D`3 AvBtbi 3 aviv gj` msthvRb Ki c`õ_Z` Kwi qvtQ | 3 avivi (1) Dc-aviv wbg`efc t

(3) gj` msthvRb Ki Avtvc | -(1) c`õ_g Zdm`j Duj w`Z cY`mgr e`ZxZ evsj v`tki Avg`vbxKZ mKj cY` l D`3 Zdm`j Duj w`Z cY`mgr e`vZxZ mKj c`f`i mivi`ni Dci Ges w`õ_xq Zdm`j Duj w`Z mKj tmev mgr e`ZxZ evsj v`tki c`õ`É` mKj tmevi Dci aviv 5 G ew`Z g`j`vi wfv`É`Z c`f`i kZvsk nvti gj` msthvRb Ki avh` c`õ`q nBte |

(2) -----

Dctiv³ Dcavivq `B cKvi gj` msthvRb Ki Avtvc Kiv nBqvTQ| c0gZt Duj w-Z c0g Zdmxtj gj` msthvRb Ki nBtZ Ae`vnuZ c0B cY` mg#ni eYBv Kiv nBqvTQ| D³ cY` mgn e`vuzitK mKj cY` Ki Avtvc thvM` | wZxqZt wZxq Zdmxtj D³ Ki Avtvc thvM` tmev mgn eYBv Kiv nBqvTQ A_vr D³ wZxq Zdmxtj ewYZ tmev mg#ni Dci wbaWi Z nvi gj` msthvRb Ki AvtvcZ nBte|

cieZ#Z Dctiv³ wZxq cKviti tmev mg#ni Dci AvtvcZ Ki c#wZ cwieZB Avbqb Kiv nq| A_© AvBb, 2000(2000 mtbi 15 bs AvBb) Gi 106 aviv etj wZxq Zdmxj w bZb Kwi qv c0Z`wvZ nq| gj` wZxq Zdmxtj gj` msthvRb Ki Avtvc thvM` tmev mg#ni eYBv Kiv nBqvTQ| wKs' c0Z`wvZ wZxq Zdmxtj gj` msthvRb Ki nBtZ Ae`vnuZ c0B tmev mg#ni eYBv c0vb Kiv nBqvTQ| Brvi minZ wjj iwlqv Dctiv³ Avtbi 86(K) aviv Abynviti 3 avivq wZxq Zdmxtj Duj w-Z kã_uj i ci tmev mgn e`vuzZ kã_uj mubewkZ Kiv nBqvTQ| dj k0vZtZ wZxq Zdmxtj Ae`vnuZ c0B tmev mgn e`vuzitK Ab` mKj tmevi Dci gj` msthvRb Ki AvtvcZ nBte|

c0Z`wvZ wZxq Zdmxtj omgvR Kj`vY gj`K tmev0 LvZi Avl Zvq Ae`vnuZ c0B weirfbetmev mg#ni gta` wPwKrmv I `v` tmev eYBv Kiv nBqvTQ wKs' D³ Ae`vnuZ c0B tmev_uj nBtZ KtqKwJ wvq ev` t` l qv nBqvTQ| D³ Ae`vnuZ c0B LvZwJ wbgie/c t gj` msthvRb Ki nBtZ Ae`vnuZ c0B tmevmmgn t

1| -----

2| mgvR Kj`vY gj`K tmev

K) wPwKrmv I `v` tmev (wPwKrmv c0Z0vb, `sÍ wPwKrmv tK>` Ges c`v_j wRK`vj j`vetiUix, weDwJ cvj vP, wtklÁ Ww³vi Ges tnj_ Kve I wduTbm tm>Uvi KZK c0É tmev e`vuzZ);

L) -----

c0Zxqgvb nBtZt0 th AvcvZ `w0tZ wPwKrmv I `v` tmev gj` msthvRb Ki nBtZ Ae`vnuZ c0vb Kiv nBtj I wPwKrmv c0Z0vb, `sÍ wPwKrmv tK>` c`v_j wRK`vj j`vetiUix I wtklÁ Ww³vi KZK c0É tmev Dctiv³ Ki c0vb nBtZ Ae`vnuZ c0vb Kiv nq bvB, eiÁ D³ tmev c0vtbi Dci Ki Avtvc Kiv nBqvTQ| dj k0vZtZ wPwKrmv I `v` tmev LvZtK Ki Avtvc nBtZ Ae`vnuZ c0vtbi Rb` msk0-AvBtbi th AšÍ w0hZ Awfc0q (spirit of the law) Zivni minZ msvNwJ K|

ZivvOvov, weDwJ cvj vP, tnj_ Kve I wduTbm tm>Uvi KZK c0É tmevi minZ GKB gvb`tU wPwKrmv c0Z0vb, `sÍ wPwKrmv tK>` c`v_j wRK`vj j`vetiUix, wtklÁ Ww³vi KZK c0É tmev AvYqb Kib GtKevitB Athšv³K| wPwKrmv tmev AvZ`gVbeZvi Rb`, gvbTli Rxeb evvPvBevi Rb`| GBi/c tmev minZ weDwJ cvj vP ev tnj_ Kve ev wduTbm tm>Uvi Gi Zj bv nvm`Ki|

msieavb 32 Abt`Q` c0É RxeTbi Awakvi Ges 18 Abt`Q` c0É tNvl bv th Rb`v`i DbwZmvab ivt0f Ab`Zg c0_wgK KZ0, i`agvI duKv ewj bq| GB_uj msvieawbK w0t`Rbv| c0_gwJ tgšuj K Awakvi | wZxqwJ iv0`cwi Pvj bvi Ab`Zg gj`bxwZ| tKvbwJB mi Kvi Aetnjv Kwi tZ cvtib bv| mi Kvi c0YZ tKvb AvBb tgšuj K Awakvi ev iv0`cwi Pvj bvi gj`bxwZi minZ msvNwJ K nBtZ cwit0e bv| nBtj msk0-AvBwJ A%a nBte|

GB c0h½ 32 Abt`Q` e⁻³ 0Rxeb ev life Gi A_© Abpveb Kiv c0qvRb| 0Rxeb0 ewj tZ i`M0e RxY© gvbteZvi Rxeb tevSvb nq bvB| Rxeb ewj tZ tevSvq GKwJ my`, mej , mvevj j , `vfwek Rxeb| Rxeb m#tU Wt gwnDwi b dvi "K ebyg evs vt` k 55 wWGj Avi (2003)69 tgvKI gvq w0tge³ gšÍ e` Kiv nq t

"Article 32 guarantees right to life. This expression 'life' does not mean merely an elementary life or sub-human life but connotes in this expression the life of the greatest creation of the Lord who has at least a right to a decent and healthy way of life

GB RxeþK mj' i wLevi i vóq `wqZ; teva nBþZB 18 Abþ"Q` þK i vó' cwi Pvj bvi Ab"Zg gj bwiZ wmvte mþPófvteB MthY Kiv nBqvþQ| KvþRB 32 Abþ"Qþ` e"3 ÚRxeb0 Ges 18 Abþ"Qþ` e"3 BnvþK mj' i wLevi c0_vgK `wqZ; veþi vax þKvb AvBb `ea nBþe bv|

evsj vþ` k GKwU MYZwšK Welfare State i vó' Zþe Bnv A`þKvi Kiv hvq bv th `þí vbz `wi`'þ` k wmvte mi Kvþi i Aw_ R ¶lgZv mwgZ Ges nqþZv miv`"Qv _vKv `þÉI meþvaviþbi Rb" webvgþj" wPwKrmv tmev c0vb mæe bq wKš' thLvþb Rbmvari Y webvgþj" bq, wBR e"þq wPwKrmv tmev µq Kwí þZþQ, þmLvþb Zvni µq gþj" i Dci Ki Avþivc msveavþbi 32 l 18 AbþPQþ` i gj þPZbvi

GgZve`vq gj" msthvRb Ki AvBb, 1991, Gi w0Zxq Zdmþj evY gþj" msthvRb Ki nBþZ Ae"vniZ c0B tmev gþni Zvþj Kv nBþZ wPwKrmv c0Z0vb, `š' wPwKrmv þK`"þ; c"v_j wRK"vj j`veþi Uix, veþklÁ Wv3vi c0É tmev ev` c0vb AmvseavwK nBqvþQ| GgZve`vq þKvb tiwMi wBKU nBþZ Zvni wPwKrmv mspvš' þKvb LiP ev e"þqi Dci gj" msthvRb Ki Avþivc Kiv hvBþe bv|

AZGe, Dcþiv3 w0Zxq Zdmþj i mgvR Kj`vY gmK tmev wktivvþg Avl Zvq (K) `vq wPwKrmv l `þ`" tmev kã_wj i cþi eþþKþU e"3 ÚwPwKrmv c0Z0vb, `š' wPwKrmv þK`"þ Ges c"v_j wRK"vj j`veþi Uix, 0 Ges ÚveþklÁ Wv3vi 0 kã_wj i Dcw`wZ A%ea l teAvBbx þNvl bv Kiv nBj | c0Zev`wMY G mæúþK`c0þvRbxq c`þ¶c ZwvMthY Kwí þeb|

AZGe, AÎ i xU tgvKí gvq RvixKZ i"j wJ LiPv e"vZþiþK G`vemuj DU Kiv nBj |
