IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2232 of 2015

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Tata International Limited, a Company incorporated under the Companies Act having its office at P.H. Chowk, Maripur, P.O. Muzaffarpur , P.S. Kazi Mohammadpur, District Muzaffarpur through its Manager, Alok Asthana son of Late S.B. Asthana resident of Road No. 3, Azad Colony, Maripur, P.O. Muzaffarpur, P.S. Kazi Mohammadpur, District - Muzaffarpur.

.... Petitioner

Versus

1. State of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of Commercial Taxes, Muzaffarpur West Circle, Muzaffarpur.
3. Assistant Commissioner of Commercial Taxes, West Circle, Muzaffarpur.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy with Mrs. Manju Jha, Advocates
For the Respondent/s : Mr. Vikas Kumar, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 05-02-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner has come up before this Court for quashing the notice dated 16.1.2015 under Section 27 of the Bihar Finance Act, 1981 and a further notice of demand under Section 47 of the Bihar Value Added Tax Act, 2005 by which the bank account of the petitioner with the State Bank of India, Corporate Account Group, Ballard Estate, Mumbai has been attached.

Learned counsel for the petitioner submits that most of the orders of assessment made under Section 25(2) of the Act are not at all time barred but even the basic requirement of issuing a show cause notice and giving opportunity to explain within 30 days have not been complied with by the respondents. It is, however, admitted that against the said notice the petitioner has already approached the Joint Commissioner of Commercial Taxes (Appeals), Muzaffarpur for some of the periods and also the Commissioner of Commercial Taxes, Bihar by filing revision with regard to some of the other periods. It is submitted by learned counsel that the respondent Assessing Officer has sought to take undue advantage on account of inadvertent clerical error made in the returns filed by the petitioner, whereas the entire amount of tax has already been paid and it is not open to the respondents to collect excess tax without any authority under the provisions of the Bihar Finance Act or the Bihar Value Added Tax Act.

Be that as it may, since the petitioner has already approached the Joint Commissioner of Commercial Taxes (Appeals) and the Commissioner of Commercial Taxes in the matters covered by the notice dated 16.1.2015, the writ application is disposed of with a direction to the respondent Commissioner of Commercial Taxes and the Joint Commissioner of Commercial Taxes (Appeals), Muzaffarpur to consider and dispose of the same within a period of two weeks from the date of receipt/production of a copy of this order. The petitioner shall co-operate in the disposal of the appeals/revision applications.

Until the decision on the appeals/revision applications, no coercive action shall be taken against the petitioner.

(Ramesh Kumar Datta, J)

spal/-

(Anjana Mishra, J)

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