IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2996 of 2015

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Khandelwal Traders, a proprietary concern having its office at North Market Road, Near Hotel Deep, Upper Bazar, Ranchi, through its proprietor Mahesh Kumar Khandelwal Son of Late Mohan lal Khandelwal, resident of North Market Road, Upper Bazar, P.O. G.PO, P.S. Kotwali , Ranchi (Jharkhand)

.... Petitioner/s

Versus

1. State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikash Bhawan, Bailey Road, Patna.
2. Commercial Taxes Officer, Gaya Circle , Gaya.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy
For the State : Mr. Rajesh Ranjan, Advocate.

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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 20-02-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 27.01.2015 passed by the Commercial Tax Officer, Gaya Circle Gaya under Section 61(3) read with Section 56(4)(b) of the Bihar Value Added Tax Act for release of the transport vehicle with the goods loaded thereon.

Learned counsel for the petitioner submits that the goods were being transported from Ranchi in the State of Jharkhand to Gurgoan in the State of Haryana and those were not at all meant to be offloaded in the State and the only liability in such circumstances, is to obtain the transport permit from the authorities of the first check post which is to be surrendered before the authorities of the last check post of the State and such goods are not exigible to Value Added Tax at all under the provisions of the Act, as no such penalty ought to have been levied, more so, considering the fact that the driver was carrying all the relevant papers with respect to such goods.

It is however, admitted by learned counsel for the petitioner that the driver had not followed the regular route for reaching the first check post from Jharkhand to Bihar rather he had diverted when he had been intercepted and the impugned order passed .

Be that as it may, since there is provision for statutory appeal with regard to the order dated 27.01.2015, in the facts and circumstances of the case, it would be appropriate for the petitioner to approach the statutory authorities under the Act.

The writ application is, accordingly, disposed of with a direction to the petitioner to approach the statutory appellate authority for challenging the impugned order dated 27.01.2015.

However, upon providing bank guarantee of Rs. 20, 55,330/- by the petitioner which is the amount of penalty imposed, the respondent no. 2 shall release the truck alongwith the goods thereon forthwith.

Learned counsel for the State shall inform the respondent no. 2 about this order so that the truck alongwith the goods may be released as soon as the bank guarantee is produced by the petitioner.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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