

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4373 of 2015

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M/s Omkar Agency, through its Proprietor Narayan Panda Son of Late Murlidhar Panda resident of Krishna Market, Karbigahiya, P.S. Jakkanpur, District - Patna (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Commercial Tax, Bihar, Patna
2. The Assistant Commissioner, Commercial Taxes, Sitamarhi Division, Sitamarhi, Bihar
3. The Commercial Taxes officer, Sitamarhi Division, District Sitamarhi, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Mr. Pushkar Narain Shahi, AAG-10
Mr. Sanjit Kumar Singh, 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)

3 30-03-2015 Heard learned counsel for the petitioner and learned Additional Advocate General No. 10 for the State.

This writ application has been filed seeking quashing of the memo of seizure dated 16.03.2015 issued by the Commercial Taxes Officer, Sitamarhi Division, District Sitamarhi. By interim order dated 23.03.2015, on the basis of the statements made by learned counsel for the petitioner that the three times penalty would be about Rs. 2.5 lacs, which was not contradicted by the learned counsel for the State, it was

directed that on the petitioner producing a bank guarantee of Rs. 2.5 lacs before the respondent no. 3 (Commercial Taxes Officer, Sitamarhi Division, District- Sitamarhi), goods shall be released forthwith.

In the counter affidavit filed on behalf of the State, it is stated that the order dated 18.03.2015 was passed by the Commercial Taxes Officer, Sitamarhi Division, District Sitamarhi imposing penalty of Rs. 8,26,999/- but complying with the direction of this Court, the goods have been released on the production of bank guarantee of Rs. 2.5 lacs by the writ-petitioner.

Various other factual issues have been raised in the writ application on behalf of the respondents and we are thus of the view that the matter is not such that ought to be considered in the writ jurisdiction of this Court since the petitioner has statutory remedy available in the matter under the Bihar VAT Act.

However, since the direction for release of goods on furnishing bank guarantee of Rs. 2.5 lacs was given on the view that the same would cover the amount of penalty it is now directed that the petitioner shall furnish a further amount of bank guarantee, amounting to Rs. 5,76, 999/- so as to cover the

entire amount of penalty as levied by the order dated 18.03.2015. Subject to the petitioner's furnishing the said bank guarantee, it shall be open for the petitioner to file an appeal before the appropriate statutory authority, who shall consider and dispose of the same in accordance with law.

The writ application is accordingly, disposed of.

It is made clear that this Court has not examined the matter on its merits and it is for the appellate authority to consider the same.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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