IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4086 of 2015

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1. Central Organization for Railway Electrification, a Department of Government of India having its office at inside General Stores Depot, North Frontier Railway, P.O. + P.S. Bhaktinagar, New Jalpaiguri (West Bengal) through its authorized signatory, Dhananjay Roy, son of Shri Rajendra Nath Roy, resident of Uttar Mouamari, P.O. Domohani, P.S. Maynaguri, District - Jalpaiguri (West Bengal).

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikas Bhawan, Bailey Road, Patna.
2. Joint Commissioner of Commercial Taxes, (Appeals), Purnea Division, Purnea.
3. Dy. Commissioner of Commercial Taxes, Katihar Circle, Katihar.
4. Asstt. Commissioner of Commercial Taxes, Katihar Circle, Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.D.V.Pathy
Mrs. Manju Jha
Mr. P.K. Mishra

For the Respondent/s : Mr.Vikas, A.C. to PAAG

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 28-04-2015

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the notice dated 14.1.2015 under Section 47 of the Bihar Value Added Act, 2005 issued by the Deputy Commissioner of Commercial Taxes, Katihar Circle, Katihar as also the order dated 20.2.2015 passed by the Joint Commissioner of Commercial Taxes (Appeals), Purnea Division, Purnea. By the notice dated 14.1.2015, the Branch Manager, State Bank of India, Main Branch, Siliguri has been directed to pay an amount of Rs.2,55,43,960/- on account of the taxes imposed under Section 40 (5) of the Bihar Value Added Act, 2005, whereas by the order dated

20.2.2015, the Joint Commissioner had directed that in case the petitioner deposits 50% of the disputed amount by 12.3.2015 then the rest amount shall remain stayed during the pendency of the appeal.

Learned counsel for the petitioner submits that in the proceedings under Section 40 of the VAT Act, the petitioner had produced a few documents and had thereafter sought time to produce the remaining documents and although there may have been some laches on the part of the petitioner in producing the same but considering the nature of the transaction the order in question is completely unjustified as invoices would show that the nature of transaction is of inter-State stock transfers or inter-State sales and thus in no case, the tax leviable under the VAT Act at the rate of 13.5% would be applicable. As a matter of fact, more amount than the tax leviable has already been deducted and deposited by way of TDS by the competent authorities.

On a consideration of the facts and circumstances stated in the writ petition and in the counter affidavit, the order dated 20.2.2015 is quashed and it is directed that no further payment shall be required to be made by the petitioner during the pendency of the appeal before the Joint Commissioner.

With the aforesaid observations and directions, the writ application is disposed of.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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