IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8290 of 2015

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M/s Maruti Ingots Pvt. Ltd. a registered company having its office at Industrial Area, Bela, District- Muzaffarpur through one of its Director Gopal Prasad Tulsyan son of Sri Girdhari Lal Tulsyan, Resident of Sikandarpur, P.S.Town, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Bihar Patna having its office at Vikas Bhawan, Patna.
2. The Deputy Commissioner of Commercial Taxes (Incharge) Muzaffarpur (East) Commercial Taxes Circle, Muzaffarpur.
3. The Assistant Commissioner of Commercial Taxes, Muzaffarpur (East) Commercial Taxes Circle, Muzaffarpur.

.... Respondent/s

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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)

4 01-09-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 25.03.2015 passed by the Assistant Commissioner of Commercial Taxes, Muzaffarpur (East), respondent No.3, by which he has rejected the application for review of the assessment order dated 17.04.2014 and the order dated 22.05.2014 under Section 32 of the Bihar VAT Act.

So far as the orders dated 17.04.2014 and 22.05.2014 are concerned, we are not inclined to interfere with the same for the reason that the petitioner had chosen the remedy of review under the provisions of the Act and nothing has been pointed out by learned counsel for the petitioner before this Court to take up the matter under the writ jurisdiction when it has, in fact, to be considered by the authority under the statutory provisions of the Act.

So far as the challenge to the order dated 25.3.2015 rejecting the review application is concerned, learned counsel for the petitioner assails the same by stating that both the grounds for rejection are completely illegal, as without discussing the case of the petitioner, it has been stated by respondent No.3 that there is no mistake apparent although the petitioner has indicated the same in its review application.

It is further submitted by learned counsel for the petitioner that the other ground for rejection that the order had been passed by the predecessor and, therefore, the ACCT could not review the same is also contrary to the provisions of Section 76 of the Bihar VAT Act read with Rule 48 of the Bihar VAT Rules.

Learned counsel for the State is unable to satisfy this Court as to how the review application could have been dismissed by a one line statement without even indicating the stand of the petitioner in the matter and further as to how the respondent No.3

could have held that the review was not possible.

In the said circumstances, it is evident that the respondent No.3, if so inclined, could have obtained the previous sanction of the Commissioner and proceeded with the review application but it was not open to him to hold that since the order had been passed by his predecessor, therefore, the order could not be reviewed by him and the said finding is contrary to the clear cut provisions of Section 76 of the Bihar VAT Act and Rule 48 of the Bihar VAT Rules, 2005.

In the aforesaid view of the matter, the order dated 25.03.2015 is quashed and the matter is remanded to respondent No.3 to proceed afresh with the review application and pass an order in accordance with law.

The writ application is, accordingly, allowed with the aforesaid observations and directions.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

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