IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4873 of 2015

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Jagnarayan Kumar, son of Triveni Singh, Manager and Authorised agent of M/s T.T.C. Logistic (Transport Contractor and Fleet owner) with its head office at A-215, Heritage Princes, 2nd Floor Warkhandem, Ponda, P.s and District-Ponda, in the state of Goa, with his permanent address at vill- Delha (Bishanpur)P.s- Amas, Dist-Gaya in the State of Bihar

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary Finance Govt. of Bihar, Old Secretariate, Patna.
2. Deputy Commissioner, Commercial Taxes at Jalalpur Check post, in the district of Gopalganj at NH-28, Gopalganj, Bihar.
3. Joint Commercial Tax Commission(Appeal Tirhut and Saran Division), Muzaffarpur, Bihar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. B.N. Singh
Mr. Ashok Kumar Verma
Mr. Sanjay Kumar Pandey
Mrs. Renu Jha

For the Respondent/s : Mr. Vikas Kumar, A.C. 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)

3 31-03-2015 Heard learned counsel for the petitioner and learned counsel for the State.

Learned counsel for the petitioner submits that the petitioner aggrieved by the illegal order dated 8.1.2015 passed by the Deputy Commissioner of Commercial Taxes at Integrated Check Post, Jalalpur, District-Gopalganj under Section 60 (2) read with Section 56 (4) of the Bihar Value Added Tax Act, 2005 filed an appeal before the Joint Commissioner, Commercial Taxes (Appeals), Tirhut and Saran Division with an application for stay and by the impugned order dated 23.1.2015 of the Joint

Commissioner (Appeals), he has been directed to deposit 50% of the amount and give bank guarantee of the remaining 50% of total penalty of Rs.14,38,350/- imposed.

It is further submitted by learned counsel for the petitioner that the vehicle was moving with goods for export from Goa to Kathmandu in Nepal and without any hitch crossed the border of the States of Maharashtra, Madhya Pradesh and Uttar Pradesh and only at the Jalalpur Integrated Check Post of the State of Bihar, the aforesaid unfortunate situation has arisen where the vehicle along with goods has been seized.

It is also submitted by learned counsel for the petitioner that the aforesaid action of the respondent is in the teeth of Section 62 of the Bihar Value Added Tax Act, 2005.

On a consideration of the facts and circumstances of the case, it is directed that pending hearing of the appeal filed by the petitioner on the petitioner providing bank guarantee for Rs. 14,38,350/-, the vehicle along with the goods shall be released forthwith. The Joint Commissioner (Appeals) is directed to dispose of the appeal of the petitioner within a period of six weeks after the bank guarantee is filed by the petitioner.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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