IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6348 of 2015

==

Food Corporation of India a Government of India Undertaking having its Regional Office at Arunachal Bhawan, Exhibition Road, Patna through its Assistant General Manager (Taxation)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Department of Commercial Taxes, Government of Bihar, Patna
2. The Joint Commissioner of Commercial Taxes (Appeals) Central Division, Patna
3. The Deputy Commissioner of Commercial Taxes, Patliputra Circle, Patna
4. The Assistant Commissioner of Commercial Taxes, Patliputra Circle, Patna

.... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Gautam Kumar Kejriwal
For the Respondent/s : Mr.Vikash Kumar, A.C. to P.A.A.G.

==

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

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 30-04-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The writ application has been filed for quashing the order dated 16.03.2015 passed by the Joint Commissioner of Commercial Taxes (Appeals), Central Division, Patna, by which the petitioner has been directed to deposit 40% of the disputed amount of Rs.25,88,571/-, upon which the balance disputed amount shall remain stayed until the conclusion of the hearing of the appeal filed by it.

Learned counsel for the petitioner submits that the only reason for imposing penalty by the Assessing Officer was non-production of Form-F to the tune of Rs.4,58,96,655/- whereas 20% of the disputed amount has already been deposited as the statutory requirement for filing the appeal.

It is further submitted that Forms to the extent of Rs.3,57,37,724/- have already been obtained and produced before the appellate authority and the rest are under the process of being obtained. Therefore, as a matter of fact, no liability would be there of the petitioner if the matter is remanded and considered by the Assessing Officer.

On a consideration of the facts and circumstances of the case, the order dated 16.3.2015 is set aside. It is directed that the appeal shall be heard on the basis of the statutory amount of 20% of the disputed amount deposited by the petitioner and the balance disputed amount shall remain stayed until the decision of the appeal.

Let the appeal be disposed of by the Joint Commissioner (Appeals) within a period of three months from the date of receipt/production of a copy of this order, for which the petitioner is directed to co-operate.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

U			