IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9972 of 2015

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M/s. Alectra Construction Ltd, Ward No-3, New Colony, Dharampur, Dist. Samastipur, through its Director Sri Dhananjay Kumar S/o Sri Anil Kumar Singh

.... Petitioner

Versus

1. The State of Bihar through the Commissioner of taxes, Bihar, new Secretariat, Patna.
2. The Commissioner of Finance, Govt. of Bihar, Patna.
3. The Joint Commissioner of Commercial Taxes (Administration), Darbhanga Division.
4. The Deputy Commissioner of Commercial Taxes (In Charge) Samastipur Circle, Samastipur.
5. The Branch Manager, S.B.I. Branch- Agriculture Market Yard, Mathurapur, Samastipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suresh Pd. Singh, Advocate

For the Respondent/s : Mr. Purnendu Singh, G.P. 27

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

4 06-11-2015 Heard learned counsel for the petitioner and learned Government Pleader No.27 for the State.

The writ application has been filed for quashing the order dated 30.3.2015 passed by the Deputy Commissioner, Commercial Taxes (In-charge), Samastipur Circle, Samastipur by which he has imposed penalty of Rs.13,25,177/- as also tax of the same amount under the Bihar Entry Tax Act, 1993, totaling to Rs.26,50,354/- as also the order of attachment under Section 47 dated 18.6.2015 by which he has attached the Bank Account of the petitioner with the State Bank of India, Agriculture Market Yard, Mathurapur, Samastipur with the direction to pay the entire amount.

In course of argument, learned counsel for the petitioner submits that so far as the order of assessment is concerned, he has challenged the same by filing revision application before the Commissioner of Commercial Taxes, which is pending and is only pressing the challenge to the order of attachment dated 18.6.2015. It is submitted that tax has been deducted at source from the petitioner by the Executive Engineer, RCD, Muzaffarpur, Road Division No.1 to the extent of Rs.97,28,768/- and thus there was no justification for acting further under Section 47 of the Act.

In the counter affidavit on behalf of the State the said fact has not been denied and the only submission of learned Government Pleader is that if there had been such deduction of tax at source then the petitioner could have produced the Form C-II as evidence of the said deduction.

In the aforesaid facts and circumstances, the writ application is allowed. The impugned order dated 18.6.2015 is quashed with the condition that the petitioner shall produce the necessary Form C-II before the concerned authorities, who shall give credit to the petitioner for the said tax deducted. Let the Form be produced by the petitioner within a period of three weeks before the Assessing authority.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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