

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6769 of 2015

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1. M/s Dhruv Prasad Ritesh Kumar, a Proprietor Firm, having its place of business at Chanpatia, District West Champaran, through its Proprietor Dhruv Prasad son of Kedar Prasad, Resident of Chanpatia, P.S. Chanpatia, District Bettiah (West Champaran)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Vikas Bhavan, Bailey Road, Patna
2. The Joint Commissioner of Commercial Taxes [Adm], Tirhut Division, Muzaffarpur
3. The Joint Commissioner of Commercial Taxes [Appeal], Tirhut Division, Muzaffarpur
4. The Assistant Commissioner of Commercial Taxes, Bettiah Circle, Bettiah

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.8366 of 2015

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1. M/s Dhruv Prasad Ritesh Kumar, a Proprietorship Firm, having its place of business at Chanpatia, District West Champaran, through its Proprietor Dhruv Prasad son of Kedar Prasad, Resident of Chanpatia, P.S. Chanpatia, District Bettiah, (West Champaran)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Vikash Bhavan, Bailey Road, Patna
2. The Joint Commissioner of Commercial Taxes (Adm), Tirhut Division, Muzaffarpur
3. The Joint Commissioner of Commercial Taxes (Appeal), Tirhut Division, Muzaffarpur
4. The Assistant Commissioner of Commercial Taxes, Bettiah Circle, Bettiah

.... Respondent/s

Appearance :

(In CWJC No.6769 of 2015)

For the Petitioner/s : Mr. S.D. Sanjay
Mr. Alok Kumar Agrawal

For the Respondent/s : Mr. Vikash Kumar, A.C. to PAAG
(In CWJC No.8366 of 2015)

For the Petitioner/s : Mr. S.D. Sanjay
Mr. Alok Kumar Agrawal

For the Respondent/s : Mrs. Archana Sinha, A.C. to G.A.8

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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)

6 03-11-2015

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

At the outset, learned counsel for the State points out that on the earlier occasion when the petitioners had approached this Court against the orders of the assessing authority then this Court by its order dated 01.07.2014 passed in C.W.J.C. No.461 of 2014 and another analogous case had directed that the appellate authority must, instead of remanding the matter, perform its duty and go into the merit of the case.

The appeals of the petitioners have since been dismissed by the appellate authority. Learned counsel for the State submits that the petitioners have alternative statutory remedy against the impugned appellate orders before the Tribunal.

Learned counsel for the petitioners submits that in view of what has been decided in C.W.J.C. No.7207 of 2009: M/s. Bhagwati Bhandar vs. The State of Bihar and others by order dated 12.01.2011, there was no occasion for the appellate authority to have decided otherwise, except to follow the order of this Court which had allowed the writ petition on the ground that

in the absence of independent material connecting the petitioner with the alleged transactions, the authorities below manifestly erred in holding the petitioner guilty of concealment and in making the impugned orders under Section 32 (1) of the 2005 Act.

There seems to be force in the submissions of learned counsel for the petitioners but considering the fact that the petitioners have alternative statutory remedy available, we dispose of both the writ petitions with liberty to the petitioners to approach the Tribunal. In case, the appeals are filed against the impugned orders within a period of four weeks from today along with the applications for condonation of delay then the Tribunal shall consider the same keeping in view the fact that the petitioners have been pursuing their remedies before this Court.

Considering the repeated litigations that the petitioner has had to face, the Tribunal is directed to ensure that the appeals are finally disposed of within a period of four months from the filing of the same.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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