IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4534 of 2015

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Iris Computers Limited, a Company incorporated under the Companies Act, 1956, having its registered office at A- 155, Road No. - 4, Mahipalpur, P.O. Mahipalpur, P.S. Basantkunj, New Delhi - 110037 and Branch Office at 1st Floor, Jayneet House, Sahi Lane, S.P. Verma Road, P.O. Jamal Road, P.S. Gandhi Maidan, Patna - 800001 through its authorized signatory , Saket Kumar, son of Parshuram Singh, resident of Sanjay Nagar, Road No. 10, P.O. Mithapur, P.S. Jakanpur, Patna - 800010.

.... Petitioner

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikas Bhawan, Bailey Road, Patna.
2. Commercial Taxes Officer, Patliputra Circle, Patna.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy with M/S Manju Jha, P.K. Mishra & Abhi Sarkar, Advocates
For the Respondent/s : Mr. Purnendu Singh, GP 27

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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)

2 26-03-2015 Heard learned counsel for the petitioner and learned Government Pleader No.27 for the State.

The petitioner prays for quashing of the order dated 8.1.2015 passed by respondent No.2, the Commercial Taxes Officer, Patliputra Circle, Patna as also notice of demand dated 11.3.2015 issued under Section 47 of the Bihar Value Added Tax Act, 2005. The aforesaid order has been passed under Section 9(2) of the Central Sales Tax Act, 1956 read with Section 25 of the Bihar VAT Act.

The stand of the petitioner is that the requisite declaration Form 'C' and Form 'F' could not be available to the petitioner while notices were issued and whatever documents available were produced before the Assessing Officer and prayer for extension of time had been made for submitting the remaining forms, which was refused and the order of assessment had been passed raising demand against the petitioner which is uncalled for in view of the nature of the transactions. In support of his stand learned counsel for the petitioner relies upon a decision of the Supreme Court in the case of Ambica Steels Ltd. vs. The State of U.P. & Ors. : (2009) 14 SCC 309.

It is further submitted by learned counsel that in the meantime the petitioner has been able to obtain all the Form 'C' and Form 'F' with regard to the entire transactions and if an opportunity is granted to him he can appear before the Assessing Officer and satisfy about the transactions by producing the Forms.

On a consideration of the facts and circumstances of the case and the well established principle of law on this point, the order dated 8.1.2015 for the period 2013-14 passed by respondent No.2 in the case of the petitioner is quashed as also the consequential notice of demand under Section 47 of the Act.

The matter is remanded to the Commercial Taxes

Officer, Patliputra Circle, Patna to consider afresh in the light of the Form 'C' and Form 'F' to be produced by the petitioner. Let the petitioner appear before the Assessing Officer in the matter on 9th April, 2015 at 11.30 A.M. along with a copy of this order and the requisite documents, who shall thereafter consider the same and decide the matter afresh.

With the aforesaid observations and directions, the writ application is disposed of.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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