# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.2507 of 2015**

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M/s Tata Project Ltd. 6ht Floor, Prem Sadan , Bukdling No. 11, Rajendra Place, New Delhi- 110008, India and having its registered office at "Mathona Towers-1, 1-7-80 t0 87, opp. Wesley Co-ed Jr. college Prenderghast, Road Securandabad- 500 003, (AP), and Regional Office at TaTa Projects Limted, 203, Shanti Complex, S.P.Verma, Road, Patna through Mr. Manoj Kumar pattnaik, D.G.M. Project.

.... .... Petitioner/s

Versus

1. The State of Bihar through Commissioner, Commercial Tax Department , New Secretariat, Patna.
2. Deputy Commissioner of Commercial Taxes, Patliputra Circle, Patna.
3. The Power Grid Corporation of India Limited through its Depty General Manager , having its Registered Office at B-O, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016 and Corporate officae at PlotNo. 2, Sector -29, Gurgaon-122001, Haryana and having regional , office , Eastern Region, Transmission System-1, Alankar Palace, Boring Road, Patna 800001 through its Deputy General Manager.

.... .... Respondent/s

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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 19-02-2015 Learned counsel for the petitioner is permitted to correct the designation of respondent No.2 in the course of the day.

Heard learned counsel for the petitioner and learned counsel for the State as also learned counsel for respondent No.3, Power Grid Corporation of India Ltd.

The petitioner has approached this Court for quashing the order dated 26.12.2014 passed by the Assistant Commissioner of Commercial Taxes, Patliputra Circle, Patna under Section 9 (2) of CST Act, 1956 and Section 25 (2) of the Bihar VAT Act, 2005, by which tax amounting to Rs.12,81,23,925/- has been imposed upon the petitioner.

The stand taken by learned counsel for the petitioner before us is that first of all the amount of Rs. 81,52,81,099/- shown as inter-State sale and sale on stock transfer outside the State is not borne out by the return of the petitioner, which has been annexed to the writ petition.

Secondly, it is stated that the only reason for imposing the tax is that the petitioner could not produce Form-C with regard to inter-State sale which has been solely made to the respondent No.3, Power Grid Corporation of India and the same was on account of non-issuance of the said Form-C to the respondent No.3.

Learned counsel for respondent No.3 points out that the application for supply of Form-C has been made by the respondent and the same has been rejected on the ground that CST TIN No. was shown as that allotted to the petitioner by the authorities of the State instead of showing the CST TIN No. of the State from which the goods had been sent, whereas the goods, as a matter of fact, have been received as inter-State sale by respondent No.3 from the petitioner, for which necessary evidences are with the respondent No.3 and are being produced before the departmental authorities for the issuance of Form-C, out of which part of the road permit has already been submitted before the departmental authorities. For the rest, details have been sought by the respondent No.3 from the petitioner and thereafter it is expected that Form-C shall be issued to the respondent No.3 for being handed over to the petitioner.

Lastly, it is the stand of learned counsel for the petitioner that no proper opportunity of hearing was given to the petitioner as after receipt of the notice on 15.2.2014 by E-Mail, the petitioner had appeared before the Assistant Commissioner on 20.12.2014 and prayed for three weeks' time but instead of granting time, the impugned order has been passed on 26.12.2014.

Faced with the aforesaid situation, Mr. Vikas Kumar, learned counsel for the State submits that in the given facts and circumstances, the matter may be remanded to the assessing authority to pass a fresh order in accordance with law.

The writ application is, accordingly, allowed. The order dated 26.12.2014 passed by the Assistant Commissioner, Commercial Taxes, Patliputra Circle, Patna is quashed and the matter is remanded to the Assistant Commissioner of Commercial Taxes to decide the same afresh in accordance with law after giving proper opportunity to the petitioner. It is further made clear that before proceeding with the assessment, the respondent No.2 shall ensure that the matter regarding issuance of Form-C to the respondent No.3 is sorted out so that a proper assessment may be made in accordance with law. The petitioner shall co-operate with the respondent authorities in the matter of assessment.

**(Ramesh Kumar Datta, J)**

V.P.Sinha/-

**(Anjana Mishra, J)**

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