IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7981 of 2015

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M/s. Ashok Buildcon Ltd, having its Registered Office at Road No.6, Shastri Nagar, Plot no. 70, Sector-32 Gurgaon, and Regional Office at- A-1, First Floor,Jula Niketan Apartment, Anadnpuri, Gali No.02, West Boring Canal Road, Patna-1, Bihar.

.... Petitioner

Versus

1. The State of Bihar through Commissioner, Commercial Tax Department, New Secretariat, Patna.
2. Deputy Commissioner of Commercial Taxes, Integrated Check Post, Karmnasha Check Post, Bhabhua.
3. Assistant Commissioner, of Commercial Taxes, Integrated Check Post, Karmnasha Check Post, Bhabhua.
4. Deputy Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Advocate with
Mr. Anurag Saurav, Advocate

For the Respondent/s : Ms. Archana Sinha, AC 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)

5 05-11-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner prays for quashing the order dated 12.4.2015 passed by the Assistant Commissioner of Commercial Taxes, Integrated Check Post, Karmnasha Check Post, Bhabhua by which he has imposed penalty under Section 60(4)(b) read with Section 56(4)(b) of the Bihar Value Added Tax Act, 2005.

The principal submission of learned counsel for the petitioner is that after the seizure of the truck on 11.4.2015 the date for filing reply to the show cause was fixed on 13.4.2015 and the petitioner, as a matter of fact, appeared on 13.4.2015 but was surprised to know that the order had been passed on the previous day, i.e., 12.4.2015, on the statement of the driver, which is contrary to law and the petitioner, who is directly affected by the said order, had appeared on the date fixed.

In the counter affidavit filed on behalf of the State the said fact is not denied.

In the aforesaid circumstances, the writ application is allowed. The impugned order dated 12.4.2015 is quashed and the matter is remanded to the Assistant Commissioner, Commercial Taxes, Integrated Check Post, Karmnasha Check Post, Bhabhua to decide the matter afresh after hearing the petitioner and considering the documents submitted by the petitioner. For the said purpose, no further notice is required to be issued to the petitioner, who shall appear before the Assistant Commissioner on 30th November, 2015 at 11 A.M. along with his reply to the show cause and other documents and materials in support of his stand and the Assistant Commissioner shall decide the matter within two weeks thereafter.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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