IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1933 of 2015

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M/s Kothari Trading Company, a proprietary concern, having its place of business at S.D.O. Road, Khagaria, P.O. and P.S. Town and District- Khagaria through its Proprietor Than Mal Kothari son of Late Bacch Raj Kothari, resident of 116-B, Bishwanath Ganj, P.O. and P.S. Town and District- Khagaria.

.... Petitioner/s

Versus

1.The State of Bihar through the Principal Secretary cum Commissioner of Commercial Taxes, Vikash Bhavan, Bailey Road, Bihar, Patna.
2. The Commissioner of Commercial Taxes, Bihar, Vikash Bhavan, Bailey Road, Patna.
3.The Assistant Commissioner of Commercial Taxes, Khagaria Circle, Khagaria.
4. The Commercial Taxes Officer, Khagaria Circle, Khagaria.
5. The Branch Manager, Central Bank of India, Khagaria.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. S.D. Sanjay, Senior Advocate
For the State : Mr. Vikas Kumar, A.C. to PAAG
For respondent Bank : Mr. Ajay Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)
Date: 03-02-2015

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Central Bank of India.

The petitioner seeks quashing of the order dated 20.1.2015 passed by respondent No.3, Assistant Commissioner of Commercial Taxes, Khagaria in exercise of powers under Section 47 of the Act.

The petitioner was assessed by the respondent No.3 and a tax liability of Rs.16,10,470/- for the year 2005-06 was assessed against it, for which a demand notice was also issued in which the petitioner has filed a revision petition before the Commissioner of Commercial Taxes, being Revision Case No.CC(S) 4/2011-12, on 18.2.2011 but the same, apart from having been once heard on 3.6.2011, has not been taken up for hearing again for final disposal.

It is submitted that the petitioner had made a prayer for early hearing and it is not being heard. It is also the stand of the petitioner that the petitioner had already paid the entire amount of tax but on account of misconception in the audit report, a difference of Rs.32,29,938/- has been shown as suppression of sale and the aforesaid tax and penalty imposed.

It is also contended that while, on the one hand, the Commissioner of Commercial Taxes is not disposing of the revision case in which the petitioner is extremely hopeful of success but, on the other hand, the Assistant Commissioner, Commercial Taxes has issued the notice under Section 47 of the Act to the Manager, Central Bank of India for recovery of the amount from the account of the petitioner, in compliance of which the bank has already paid an amount of Rs.6,00,000/- which was lying to the credit in the said account.

On a consideration of the facts and circumstances of the case, the writ application is disposed of with a direction to the respondent No.2, Commissioner of Commercial Taxes to consider and dispose of the revision case of the petitioner within a period of two weeks from the date of receipt/production of a copy of this order.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

V.P.Sinha/-

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