**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.16089 of 2015**

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Berger Paints India Ltd., a Company incorporated under the Companies Act, 1956 having its office at T.P.S. Compound, New Bye Pass Road, P.O. Anishabad, P.S. Beur, District – Patna, through its Branch Manager, Pramod Kumar Pathak, son of Late Sukhdeo Pathak, resident of Flat No. 101, Phool Bhawan Apartment, Nehru Nagar, P.O. + P.S. – Patliputra, District – Patna.

.... .... Petitioner

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, having its office at Vikas Bhawan, Bailey Road, Patna.
2. Dy. Commissioner of Commercial Taxes.
3. Commercial Taxes Officer, Integrated Check Post, Karmnasha (Kaimur).

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. D.V.Pathy, Advocate
Mr. P.K. Mishra, Advocate
Mr. Manju Jha, Advocate
Mr. Abi Sarkar, Advocate

For the Respondent/s : Mr. Lalit Kishore (P.A.A.G.)

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**
**And**
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**
ORAL ORDER
**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

**2** **07-10-2015** The petitioner, by this writ application, challenges the imposition of penalty under the provisions of Bihar Value Added Tax Act, 2005, in terms of Section 60(4)(b) read with Section 56(4)(b) of the said Act, as well as seizure and continued detention of the Truck along with goods loaded thereon.

To this Court, so far as the aspect of penalty is concerned, the petitioner or the person who has been imposed with penalty may prefer an appeal in accordance with law, which is statutory remedy, but so far as the Truck loaded with goods are concerned, they serve no useful purpose either to the department or to anybody else.

In that view of the matter, we direct that the public carrier vehicle along with goods loaded thereon being Vehicle (Truck) No. PB 46K/2407 be released on furnishing bank guarantee in favour of the Deputy Commissioner of Commercial Taxes, Integrated Check Post, Karmnasha, Bhabhua(Kaimur), to the extent of the tax sought to be evaded i.e. for amount of Rs. 3,10,000/- which would be subject to the appellate proceeding/Revisional order against order of penalty. It shall be the responsibility of the Deputy Commissioner aforesaid to ensure that the vehicle in question along with the goods loaded thereon be released forthwith.

This application is, accordingly, disposed of.

**(Navaniti Prasad Singh, J.)**

**(Nilu Agrawal, J.)**

Rajeev/-

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