IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7129 of 2015

==

Bata India Limited, having its office at Bataganj, P.O. and P.S., Digha, District-Patna through its Manager (Sales Tax) Sunil Kumar Mishra, son of Shri Awadh Narayan Mishra, resident of Vivekanand Park, South East Patliputra Colony, P.O. and P.S. Patliputra Colony, 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, Integrated Check Post, Dobhi (Gaya).
3. Commercial Taxes Officer, Integrated Check Post, Dobhi, Gaya.

.... Respondents

==

Appearance :
For the Petitioner/s : Mr. D.V.Pathy
For the Respondent/s : Mr. Vikash Kumar, PAAG

==

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

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 06-05-2015 Heard learned counsel for the petitioner and learned counsel for the State.

The writ application has been filed for quashing the order dated 25.4.2015, by which the penalty has been imposed under Section 60 (4) (b) read with Section 56 (4) (b) of the Bihar Value Added Tax Act, 2005 as also for the release of the transport vehicle being Truck No. BR-1GA-2114 along with the goods laden thereon.

Learned counsel for the petitioner submits that the goods in question, being natural rubber, were being brought into the factory of the petitioner for manufacture of footwear. The petitioner being a large manufacturer of footwear, the said penalty ought not to have been imposed as the invoice being carried on the truck clearly mentions all the details with regard to the goods that were brought in.

On a consideration of the facts and circumstances of the case, the petitioner is relegated to his remedy of statutory appeal under the provisions of the Bihar Value Added Tax. In the meantime, on the petitioner furnishing the bank guarantee for Rs. 4,54,680/-, the truck along with goods shall be released forthwith by the competent authority.

It is informed by learned counsel for the petitioner that there is an unjustified practice of sending the dealers/transporters concerned from the Integrated Check Post to the relevant Circles for verification of the bank guarantee which leads to uncalled for harassment of the dealer/transporter.

As per the direction of the respondent authorities the bank guarantee has to be prepared in the name of the officer-in-charge of the nearby Circle and not of the Integrated Check Post since there is no bank account in the name of the Officer-in-Charge of Integrated Check Post.

In our view if the seizure as also the order imposing penalty has been passed by the officer of the concerned Integrated Check Post then the bank guarantee, which is directed to be furnished in whomsoever's name as per the respondents' direction, ought to be verified by the same authority and the truck along with goods as directed by the orders should be released without any unnecessary delay. The Commissioner, Commercial Taxes must ensure that this order is carried out throughout the State.

Learned counsel for the State shall inform the concerned officer to ensure compliance of this order without insisting upon the certified copy.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

U			