IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14782 of 2016

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M/s Mohan Bricks through its Proprietor, Smt. Mithila Jha wife of Sri Ram Sewak Jha Resident of Village-Karja Patti, P.S.-Kamtaul, District-Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Commercial Taxes Department, Bihar
2. The principal Secretary, Commercial Taxes Department, Government of Bihar, Patna
3. The Deputy Commissioner Commercial Taxes, Darbhanga Circle, Darbhanga
4. The Assistant Commissioner, of Commercial Taxes, Darbhanga Circle, Darbhanga
5. The Commercial Taxes Officer Darbhanga Circle, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra

For the Respondent/s : Mr. Anurag Saurav, A.C. to S.C. 2

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 22-09-2016

Heard learned counsel for the parties.

2. The challenge in the writ application is an order dated 17th of July, 2015 raising demand of Rs.2,10,300/- from the petitioner for the Assessment Year 2013-14 towards the balance amount of Value Added Tax.

3. The stand of the petitioner is that such demand was raised without serving any notice upon the petitioner under Section 31(1) of the Bihar Value Added Tax Act, 2005 (for short “the Act”) for the Assessment Year 2013-14.

4. In the counter affidavit filed, the State relies upon the

notice dated 25th of June, 2015 (Annexure-C). As per counter affidavit, the said notice has been purportedly sent under ordinary post.

5. We find that there is no satisfactory proof of issuance of any notice to the petitioner. Therefore, it is difficult for this Court to give a finding that the notice was served upon the petitioner.

6. In view thereof, the writ petition is allowed, impugned order and the Demand Notice both dated 17th of July, 2015 are set aside and the matter is remanded back to the Assessing Officer to proceed afresh with the matter in accordance with law. It is made clear that no fresh notice is required to be issued to the petitioner and that the petitioner shall present himself before the Assessing Officer concerned on 5th of October, 2016 at 11.00 A.M. with a reply and other relevant documents whereupon the concerned Assessing Officer shall proceed to dispose off the matter in accordance with law.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Amin/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.10.2016
Transmission Date	N.A.