IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6245 of 2016

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M/s Indra Eit Nirman Udyog through its Proprietor, Sri Uday Shankar Chaudhary, Son of Late- Indra Narayan Chaudhari Resident of Village- Makhanpur, PO- Basha, Mirjapur, PS. Ashok Paper Mill, Distt 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.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Kaushal Kumar Jha
For the Respondent/s : Mr. Purnendu Singh- Gp27

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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)

3 26-04-2016 Learned Government Pleader No.27 submits that since the welfare stamp is not available, the same has not been affixed on the counter affidavit and he undertakes to file the same when it becomes available.

Heard learned counsel for the petitioner and learned Government Pleader No.27 for the State.

The petitioner seeks quashing of the order dated 22.07.2015 and the demand notice of the same date issued from the office of the Deputy Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga, by which the petitioner has been directed to pay entry tax of Rs.90,000/- and penalty of

Rs.1,20,800/- for the period 2012-13.

It is submitted by learned counsel for the petitioner that the order in question has been passed under Section 8 of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 read with Section 28 of the Bihar Value Added Tax Act, but the proceedings for the period 2012-13 having been initiated before 31.03.2013, hence, the proceedings are without authority of law in view of the proviso to sub-section (2) of Section 25 of the Bihar VAT Act.

In the counter affidavit filed on behalf of the respondents, it is admitted that notice of the proceedings was issued on 18.6.2015 fixing the date of hearing on 17.7.2015.

In the aforesaid circumstances, the proceedings were clearly barred by the proviso to sub-section (2) of Section 25 of the Bihar VAT Act.

The writ application is, accordingly, allowed. The impugned order and the demand notice both dated 22.07.2015 for the period 2012-13 are quashed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Sudhir Singh, J)

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