# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.11964 of 2016**

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M/s Rajan Int, Village Hathwa, P.O. & P.S.- Hathwa, and District Gopalganj (PIN-841436) through its Proprietor Satish Kumar, son of Sri Shankar Prasad, resident of Village- Hathwa, P.O. & P.S.- Hathwa and District- Gopalganj.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Commercial Taxes Officer, Gopalganj Circle, Gopalganj, District-Gopalganj.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ramesh Kumar Agrawal, Advocate.

For the Respondent/s : Mr. Vikash Kumar, S.C.-11

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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: 20-09-2016**

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order passed on 14th of August, 2015 under Section 28(1) of the Bihar Value Added Tax Act, 2005 (for short "the Act") read with Section 8

of the Bihar Tax on Entry of Goods in to Local Areas for Consumption, Use or Sale Therein Act, 1993.

3. The challenge to the said order is on the ground that the proceedings have been initiated against the petitioner under Section 28 of the Act after the expiry of two years. Therefore, same is not maintainable in terms of the provisions contained in Section 28 of the Act itself.

4. A perusal of the record shows that for the Assessment Year 2012-13, the proceedings were initiated on 17$^{th}$ of June, 2015 i.e. after the expiry of two years of the end of the financial year 2012-13.

5. Section 28(1) of the Act provides that no proceedings for such assessment shall be initiated after the expiry of two years from the period for which it relates. Thus, any proceedings for the Assessment Year 2012-13 could have been initiated only up to 31$^{st}$ of March, 2015 and not thereafter.

6. In the counter affidavit filed, the stand of the petitioner that the proceedings were not initiated on or before 31$^{st}$ of March, 2015 has not been controverted.

7. Since the proceedings have been initiated in the month of June, 2015, the same is clearly beyond the period of limitation prescribed under the Act.

8. Consequently, the writ application is allowed and the order dated 14th of August, 2015 is quashed.

**(Hemant Gupta, J)**

**(Ahsanuddin Amanullah, J)**

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