IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12511 of 2016

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Janki Eit Udyog, a Partnership firm, having its registered office at Ganj Raghauli, P.O. Madho Patti, P.S. Kamtaul, District - Darbhanga - 847306 through its Partner, Manoj Jha, son of Shri Anil Kumar Jha, resident of Diwani Takiya, Kathalwari, P.O. - Lalbagh, P.S. - Lalit Narayan Mishra University, District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Bailey Road, Patna.
2. Commercial Taxes Officer, Darbhanga Circle, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate.

For the Respondent/s : Mr. Vivek Prasad- GP 7

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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: 09-08-2016

The challenge in the present writ petition is to an order dated 30.06.2015 pertaining to the assessment year 2013-14, whereby the entry tax and penalty amounting to Rs. 2,08,600/- was imposed upon the petitioner.

The sole argument raised by the learned counsel for the petitioner is that the assessment has been made without giving any notice. The petitioner relies upon the endorsement in the last column of Annexure-C/3, wherein Registration No. 2182 dated 02.07.2015 is mentioned to contend that the notice purported to have been issued after the order of assessment was passed on 30.6.2015.

In the counter affidavit, it has been mentioned that notice was issued under registered post on 31.12.2014 and later on 30.04.2015.

We find the contention of the petitioner to be wholly incorrect. In fact, the letter sent through Registration No. 2182 dated 02.07.2015 is a notice of demand attached with the writ petition as is available at page 14. That notice of demand makes a mention of 30.06.2015 as the date of the order. In view of the aforesaid, we do not find that the order of assessment has been passed without notice to the petitioner.

The order of assessment dated 30.06.2015 is an appealable order in terms of the provisions of Bihar Value Added Tax Act, 2005.

Since, alternative statutory remedy is available to the petitioner, therefore, we refrain ourselves from exercising the writ jurisdiction and relegate the petitioner to avail such remedy as is available in accordance with law.

The writ petition stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	