IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12936 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, P.O.- Basha, Mirjapur, P.S.- Ashok Paper Mill, Dist.- 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 Asst. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 13296 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, P.O.- Basha, Mirjapur, P.S.- Ashok Paper Mill, Dist- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Commercial Tax Department, Government of Bihar, Patna.
2. The Principal Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. The Deputy Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga
4. The Asst. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga

.... Respondent/s

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Appearance :

(In CWJC No.12936 of 2016)

For the Petitioner/s	:	Mr. Kaushal Kumar Jha
For the Respondent/s	:	Mr. Vikash Kumar, S.C. 11
		Mr. Sriram Krishna, A.C. to S.C. 11

(In CWJC No.13296 of 2016)

For the Petitioner/s	:	Mr. Kaushal Kumar Jha
For the Respondent/s	:	Mr. Vikash Kumar, S.C. 11
		Mr. Sriram Krishna, A.C. to 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: 22-09-2016

Heard learned counsel for the parties.

2. The challenge in both the writ applications is an order dated 22nd of July, 2015 raising demand of Rs.2,10,800/- from the petitioners for the each Assessment Years 2013-14 and 2014-15 towards the balance amount of Value Added Tax.

3. The stand of the petitioners in both the writ petitions is that such demand was raised without serving any notice upon the petitioners, as required under Section 31(1) of the Bihar Value Added Tax Act, 2005 (for short "the Act") for the Assessment Years 2013-14 and 2014-15.

4. In the counter affidavit filed, the State relies upon notices dated 18th of June, 2015 (Annexure-B). As per the said proceeding the said notices have been purportedly sent under ordinary post.

5. We find that there is no satisfactory proof of issuance of any notices to the petitioners. Therefore, it is difficult for this Court to give a finding that, in fact, notices were served upon the petitioners.

6. In view thereof, both the writ petitions are allowed, impugned orders and the Demand Notices both dated 22nd of July 2015, are set aside and both the matters are remanded back to the

Assessing Officer to proceed afresh with the matters in accordance with law. It is made clear that no fresh notices are required to be issued to the petitioners and that the petitioners shall present themselves 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 of the matters 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.