IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16579 of 2016

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Kamlesh Prasad, Son of Sri Siddeswar Prasad, resident of Mohalla- Daruara, P.S. Noorsarai, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner of Commercial Tax, Bihar, Vikash Bhawan, Patna.
3. The Principal Secretary, Department of Excise, Vikash Bhawan, Patna.
4. The Bihar State Beverages Corporation Ltd. Biduit Bhawan, Patna.
5. The Collector- cum- Assistant Commissioner of Excise, Patna.
6. The Excise Tax Officer, Patna City East Circle, Patna City, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Sr. Advocate.
Mr. Bhola Kumar, Advocate.
Mr. S. Shivam, Advocate.

For the Respondent/s :

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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: 03-10-2016

The challenge in the present writ petition is to an order dated 28th December, 2015 passed by the Commercial Tax Officer, Patna City East Circle, Patna City, whereby a sum of Rs. 11,75,408/- was found to be due from the petitioner.

2. Learned counsel for the petitioner contends that the said order was passed without any notice to the petitioner and, therefore, the order is not sustainable. Learned counsel for the petitioner relies upon the order dated 29.03.2016 passed in <u>CWJC No. 3400 of 2015, M/s Chandrasekhar vs. The State of Bihar & Ors.</u> whereby the

demand notice was set aside when it was found that such demand has been raised without notice to the petitioner.

3. We have heard learned counsel for the petitioner and found no reason to entertain the present writ petition, when the petitioner has effective alternative efficacious statutory remedy. A perusal of the order dated 28th December, 2015 shows that there is clear assertion that the petitioner was served with a notice and the proof of notice is attached with the order. In view of the said factual basis, we find it difficult to accept the contention of the petitioner that assessment was framed without notice to the petitioner.

4. In view thereof, we do not find any reason to entertain the present writ petition. It is, accordingly, dismissed.

5. It shall be open to the petitioner to avail alternative statutory remedy in accordance with law.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.10.2016
Transmission Date	