IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2557 of 2016

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Kezstroy Services Infrastructre India Private Limited, presently known as KSS Private Limited, registered under the Companies Act, 1956, having registered office at C/o Shree Cement Limited- Cement Plant, Near Jasoiya More, Aurangabad, through suthorised signatory, Gangadhar Rao S., S/o Late S. Vankat Rao, aged abut 50 years, present resident of Mohalla- J-3, 175 Delhi Development Authority (DDA) Flats, Kalkaji, New Delhi-19.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna.
2. The Joint Commissioner of Commercial Taxes (Appeals), Central Divisions, Patna.
3. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
4. The Commercial Taxes Officer, Special Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhash Ranjan Thakur

For the Respondent/s : Mr. Purnendru Singh, G.P.27

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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)

2 16-02-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the ex parte order dated 4/5.08.2014 along with demand notice dated 06.08.2014 passed by the Commercial Taxes Officer, Special Circle, Patna under Section 31 of the Bihar Value Added Tax Act, 2005, and the initiation of the process of special mode of recovery under Section 47 of the Act during the pendency of the appeal.

Since the petitioner has already filed an appeal against the order impugned and the said remedy is an efficacious alternative remedy under the Statute, we see no reason to entertain the writ petition.

However, learned counsel for the petitioner submits that the stay petition filed before the Joint Commissioner of Commercial Taxes (Appeal) has been kept pending whereas, on the other hand, the respondents have started the process of recovery.

In the aforesaid view of the matter, the writ application is disposed of with a direction to respondent No.2, Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna to consider and dispose of the stay petition filed by the petitioner within a period of one week from the date of receipt/production of a copy of this order.

Until the disposal of the stay petition, no coercive action shall be taken against the petitioner and any process of coercive recovery shall remain in abeyance.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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