IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3144 of 2016

==

M/s Hemkund Traders through its Proprietor Sri Sarabjeet Singh Gandhi son of Sri T.S. Gandhi , aged 41 Years, Resident of Kankarbagh, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna.
2. The Commissioner of Commercial taxes, Bihar New Secretariat, Patna.
3. The Assistant Commissioner of Commercial Tax, South Circle, Patna.

.... Respondent/s

==

with

Civil Writ Jurisdiction Case No.3226 of 2016

==

M/s Hemkund Traders, through its Proprietor Sri Sarabjeet Singh Gandhi Son of Sri T.S. Gandhi resident of Kankarbagh, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna
2. The Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna
3. The Assistant Commissioner of Commercial Taxes, South Circle, Patna

.... Respondent/s

==

Appearance :

(In CWJC No.3144 of 2016)
For the Petitioner/s : Mrs. Archana Sinha
For the Respondent/s : Mr. Ranjeet Kumar, A.C. to PAAG
(In CWJC No.3226 of 2016)
For the Petitioner/s : Mrs. Archana Sinha
For the Respondent/s : Mr. Ranjeet Kumar, A.C. to PAAG

==

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

3 23-02-2016 Heard learned counsel for the petitioner and learned counsel for the State in both the matters.

Both the writ applications relate to the similar orders passed in the case of the petitioner and demand notice pertaining to the same dated 04.11.2015 for the periods 2010-11 and 2011-

12.

The grievance of the petitioner is that the assessment orders under Section 31 of the Bihar Value Added Tax Act, 2005 have been passed against the petitioner without giving proper opportunity to the petitioner to produce relevant documents which had got stolen and for which information was given by the petitioner to the local police on 11.01.2014.

It is submitted by learned counsel for the petitioner that the petitioner had prayed for time before the respondent Assessing Officer that attempts were being made to get the duplicate tax invoices from the concerned sellers and no sooner the same were obtained, it would be produced before him but without waiting for the same, the assessment orders have been passed.

It is also submitted by learned counsel for the petitioner that the petitioner has now been able to obtain all the relevant tax invoices, which would show that the petitioner has absolutely no liability to pay any tax and whatever amount was due and payable has already been paid by the petitioner.

Learned counsel for the State submits that the stand of the petitioner is not correct, as sufficient opportunity of hearing was given by the Assessing Officer to the petitioner in the matters on six different dates as stated in the counter affidavits.

On a consideration of the entire facts and circumstances of the case and specially considering the fact that the petitioner is stated to have, as a matter of fact, cleared all the taxes due and all that is required is for it to show the necessary proof for the same in the form of tax invoices issued by the sellers, we consider it a fit case to go back to the Assessing Authority.

For the aforesaid reasons, the impugned orders and demand notices for the periods 2010-11 and 2011-12 are quashed and the matters are remanded to the respondent No.3, Assistant Commissioner of Commercial Taxes, South Circle, Patna to re-assess the matter under Section 31 of the Act in accordance with law after considering the evidences produced by the petitioner.

It is made clear that no further notice is required to be issued to the petitioner, who shall appear before the Assessing Authority along with necessary evidences and documents on 14th March, 2016 at 11 A.M., after which the Assessing Authority shall proceed to dispose of the matters expeditiously.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

U			