IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4903 of 2016

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M/s Shyamnandan Roy through its Proprietor, Shyamnandan Roy son of late Nand Kishore Roy resident of Village - Balbhadarpur, P.S. - Laheria Sarai, District - 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 of Commercial Taxes, Darbhanga Circle, Darbhanga.
4. The Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Krishna Chandra
For the Respondent/s : MrVikash Kumar, AC to PAAG

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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)

4 07-04-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the ex parte order dated 23.06.3015 and the Demand Notice dated 23.06.2015 issued from the office of the Deputy Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga by which it has been directed to pay Entry Tax of Rs. 90,000/- and penalty of Rs. 1,17,900/- under the provisions of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein

Act, 1993 read with Section 28 of the Bihar Value Added Tax Act for the period 2013-14.

The stand of the petitioner is that no notice of the proceeding was ever served upon it nor reasonable opportunity was given to the petitioner to represent itself in the matter before passing of the ex parte order and thus, there has been gross violation of the principles of natural justice.

In the counter affidavit filed today on behalf of the State, apart from making a bare statement that notice dated 28.04.2015 was issued to the petitioner, there is nothing to show from the records that the notice was ever served upon the petitioner. Thus, the stand of the petitioner goes uncontroverted.

In the aforesaid circumstances, the writ application is allowed. The impugned order dated 23.06.2015 and the Demand Notice dated 23.06.2015 are both quashed and the matter is remanded to the Commercial Taxes Officer, Darbhanga Circle, Darbhanga to proceed afresh in the matter in accordance with law after giving proper opportunity of hearing to the petitioner.

It is made clear that no further notice of the proceedings need be issued to the petitioner and the petitioner shall appear before the Commercial Taxes Officer, Darbhanga

Circle, Darbhanga on 28th April, 2016 at 11.00 A.M. with his reply/written statement and supported documents whereupon the Commercial Taxes Officer shall proceed to decide the matter in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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