IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4905 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 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 : Mr. Vikash 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 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. 33,440/- 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

2012-13.

Learned counsel for the petitioner submits that the proceedings have been initiated after 31st March, 2015 and thus there is bar under the provisions of Section 28(1) of the Bihar Value Added Tax Act read with Section 8 of the Entry Tax Act under which provisions the order has been passed.

In support of his case, learned counsel for the petitioner relies upon an order of this Court dated 16.12.2015 passed in a batch of cases headed by CWJC No. 11844 of 2015 (Ms. Ranjan Bricks Center & Ors. Vs. The State of Bihar & Ors.) which were allowed and the notices initiating the proceedings as also the proceedings were quashed on the ground that the proceedings have been initiated after the period of 2 years from the period to which they relate, as provided in the first proviso to Section 28(1) of the Act.

In the aforesaid view of the matter, the present writ application is also allowed. The impugned order dated 23.06.2015 and the Demand Notice dated 23.06.2015 are both quashed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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