IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4993 of 2016

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Singh Int Udyog through its Proprietor, Anil Kumar Singh, son of Sri Ram Parikshan Singh, resident of Village- Mabbi, P.S. Sadar, 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. Purnendu Singh – GP-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)

5 26-04-2016 Learned Government Pleader No. 27 states that due to non-availability of welfare stamp, the same has not been affixed to the counter affidavit and undertakes to supply the same as soon as it is made available.

Heard learned counsel for the petitioner and learned counsel for the State.

The grievance of the petitioner is that the Entry Tax of Rs. 90,000/- and penalty of Rs. 1,17,600/- has been levied upon the petitioner for the period 2014-15 under the provisions of Section 8 of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 read with Section 28 (1) of the Bihar Value Added Tax Act for which the impugned order dated 20.6.2015 and the demand notice dated 2.7.2015 have been issued to the petitioner from the office of the Deputy Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga without service of any notice upon the petitioner of the proceedings.

In the counter affidavit filed on behalf of the State, it is stated that the notice was duly issued and served upon the petitioner on 8th May, 2015 for appearance on 10.6.2015 but from perusal of the same it appears that there is nothing to indicate as to who has received the notice or even made signature on the back part of the notice. In the said circumstances, it cannot be held to be valid service of notice upon the petitioner.

The writ application is, accordingly, allowed. The impugned order dated 20.06.2015 and the Demand Notice dated 02.07.2015 are both quashed and the matter is remanded to the Commercial Tax Officer to proceed afresh in the matter in accordance with law.

It is made clear that no further notice of the proceedings shall be required to be issued to the petitioner who shall appear before the Commercial Taxes Officer, Darbhanga Circle, Darbhanga on 17th May, 2016 at 11.00 A.M. with its reply/written statement and relevant 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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