IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5051 of 2016

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1. M/s Singh Bricks through its Proprietor, Narendra Kumar Singh, son of Late A.K. Singh, resident of Village- New 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. Purnendu Singh- Gp27

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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)

3 31-03-2016 Heard learned counsel for the petitioner and learned Government Pleader No.27 for the State.

The specific stand of the petitioner is that the impugned order dated 09.06.2015 and demand notice dated 13.06.2015 for the period 2014-15 under the provisions of Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 and Section 28 (1) of the Bihar Value Added Tax Act, 2005, have been passed by the Deputy Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga, by which entry tax and penalty of Rs.2,06,500/- has been imposed without any service of notice upon the petitioner and giving him an opportunity of being heard in the matter.

In the counter affidavit filed on behalf of the State, the process of service of notice sent to the petitioner has been annexed. The same, however, shows that only a bare statement has been made by the process server regarding service of notice having been made without there being any service of notice upon the petitioner or any person in accordance with the provisions of Rule-50 of the Bihar Value Added Tax Rules, 2005 and the notice is said to have been affixed, whereas nothing is on the record to show that the notice was ever served upon the petitioner.

In the aforesaid circumstances, it is evident that the notice has not been validly served upon the petitioner.

The writ application is, accordingly, allowed and the impugned order dated 09.06.2015 and the demand notice dated 13.06.2015 are both quashed and the matter is remanded to the competent authority to proceed afresh in accordance with law.

It is, however, made clear that no further notice is required to be issued to the petitioner, who shall appear before the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga on 19.04.2016 at 11 A.M. along with his relevant documents and records and the Assessing Authority shall thereafter proceed in the matter in accordance with law.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Sudhir Singh, J)

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