IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7470 of 2016

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Lal Sona Eit Udyog, a proprietorship concern having its office at Loam, P.O. Loam, P.S. Sadar, District- Darbhanga- 846007 through its proprietor, Md. Javed Anwar, son of Late M.d. Ayub, resident of village- Loam, P.O. Loam, P.S. Sadar, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikash BhawaBailey Road, Patna.
2. Dy. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga.
3. Asstt. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy
For the Respondent/s : Mr. ANIL KR. SINHA- GA9

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

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)
Date: 11-05-2016

In the order dated 27.4.2016 in the second line the period should be correctly read as ‘2012-13’ instead of ‘2014-15’.

The order dated 27.4.2016 is modified to the above extent.

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

The petitioner seeks quashing of the order dated 23.07.2015 passed by the Assistant Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga under 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, 2005 by which he has assessed Entry Tax of Rs. 90,000/- and penalty of Rs. 1,20,900/-, for the year 2012-13.

It is the stand of learned counsel for the petitioner that the proceedings are time barred on the date they were initiated and thus the proceedings as also the orders passed therein are non est in the eye of law.

In the counter affidavit filed on behalf of the State although it is admitted that the proceedings were initiated on 18.4.2015.

In the above circumstances, the proceedings were evidently time barred as they could not have been initiated after 31.3.2015 for the period 2012-13.

For the aforesaid reasons, the writ application is allowed. The impugned order dated 23.07.2015 as also the consequential demand notice dated 23.7.2015 are both quashed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	
CAV DATE	
Uploading Date	16.5.2016
Transmission Date	