IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7012 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 Md. Ayub resident of Village - Laom, P.O. Loam, P.S. Sadar, District - Darbhanga.

.... Petitioner

Versus

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

.... Respondents

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Appearance :
For the Petitioner/s : Ms. Manju Jha, Advocate
For the Respondent/s : Mr. Pawan Kumar, A.C. to G.A. 9

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

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

4 09-05-2016 Learned counsel for the petitioner is permitted to add Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga as party respondent No.3 to the writ application in the course of the day.

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

The petitioner seeks quashing of the order dated 23.7.2015 passed by the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga for the period 2014-15 under Section 8 of the Bihar Tax on Entry of Goods into Local Area for Consumption, Use or Sale therein Act, 1993 read with Section 28(1) of the Bihar Value Added Tax Act, 2005 by which entry tax of Rs.90,000/- has been levied and penalty of Rs.1,20,900/- has been imposed upon the petitioner.

It is submitted by learned counsel for the petitioner that the ex parte order has been passed without service of any notice upon the petitioner.

In the counter affidavit filed on behalf of the State the said stand raised by the petitioner in paragraph-7 of the petition has not been answered stating that the same is a matter of record.

In the above circumstances, the writ application is allowed. The impugned order dated 23.7.2015 and the consequential demand notice are both quashed and the matter is remanded to the Assistant Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga to proceed afresh in accordance with law.

However, 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 Assistant Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga on 30th May, 2016 at 11 A.M. along with its reply and necessary documents and thereafter the Assistant Commissioner shall proceed further in the matter as per law.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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