IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6996 of 2016

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Kishan Eit Udyog, a proprietorship concern having its office at Gausa, P.O. Gausa Ghat, P.S. Sadar, District- Darbhanga-846007 through its proprietor, Dilip Kumar Yadav, son of Sri Amiri Lal Yadav, resident of village- Gausa, PO Gsusa Ghat, P.S. Sadar, District- Darbhanga-846007

.... Petitioner/s

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. Assistant 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. Raj Nandan Prasad, SC-9

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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 04-05-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 21.05.2015 passed by the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga for the period 2012-13 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, 2005 by which Entry Tax of Rs. 90,000/- and penalty of 01,14,600/- has been levied against the petitioner.

It is submitted by learned counsel for the petitioner that the proceedings were time barred as they have not been initiated within two years of the period to which they relate, i.e., on or before 31.3.2015 as required by the proviso to sub-section (1) of Section 28 of the Bihar Value Added Tax Act.

Despite opportunity having been given to file the counter affidavit, it has not been filed but it is submitted by learned counsel for the State on instruction that the proceedings have not been initiated within the period prescribed for the same.

In view of the aforesaid position, the stand of the petitioner has not been controverted.

The writ application is, accordingly, allowed. The impugned order dated 21.05.2015 and the consequential demand notice are both quashed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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