IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15502 of 2015

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Mithila Int Udyog, a proprietary concern having its office at Village + P.O.- Barda, P.S. Hathauri, Dist. Darbhanga through its Proprietor, Krishna Kumar Roy, son of Sri Ramnandan Roy, Resident of village + P.O.- Barda, P.S. Hathauri, Distt.- 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. Commercial Taxes Officer, Darbhanga Circle, Darbhanga

.... Respondents

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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)

2 25-01-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 24.6.2015 passed by respondent No.3, the Commercial Taxes Officer, Darbhanga Circle, Darbhanga.

It is submitted by learned counsel for the petitioner that the impugned order dated 24.6.2015 suffers from the vice of violation of the principles of natural justice as no proper notice was served upon the petitioner to allow him an opportunity of being heard in the matter since the notice dated 28.5.2015 was served upon the petitioner on 17.6.2015 at 4 P.M., whereas the date of hearing had been fixed on the same day at 11 A.M. and when the petitioner approached the respondents immediately after receiving the said notice, he was informed that the order had already been passed in the case.

Apart from that, learned counsel submits that the order also suffers from complete non-application of mind as cyclostyled order has been passed in the case of the petitioner as in the case of 100 other brick kiln owners including the imposition of penalty under Section 28(1) of the Bihar Value Added Tax Act, 2005, whereas the petitioner was a dealer under the Entry Tax Act and had been issued a registration for the same on 28.12.2012 with effect from the same date and had also deposited the admitted tax on the said count of Rs.47,000/- on 29th March, 2014 and further Rs.40,000/- on 7th June, 2014 but none of which was taken into consideration by the Assessing Officer in the impugned order.

In the aforesaid circumstances, it is evident that the impugned order dated 24.6.2015 not only suffers from the vice of violation of the principles of natural justice but suffers from non-application of mind by the Assessing Authority.

In the aforesaid circumstances, the writ application is allowed. The impugned order dated 24.6.2015 is quashed and the matter is remanded to the Assessing Authorities to take appropriate action in accordance with law, for which purpose the petitioner shall appear before the Assessing Officer on 22nd February, 2016 along with the copy of this order and his show cause in the matter and the Assessing Officer shall thereafter proceed to decide the matter expeditiously in accordance with law.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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