IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13031 of 2016

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M/s Mother India Construction Pvt. Ltd., a company registered under the Companies Act, 1956 and having its registered office at Aspura House, Road No. 3, Sanjay Gandhi Nagar, Kankarbagh, Patna, 800020 through its Manager and authorized person, Ram Kishor, son of Sri Rama Shankar Singh, R/o Pesu Staff Quarter No. 4, Mangals Road, Patna 800015.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Department of Commercial Taxes, Bihar, Patna, New Secretariat, Patna.
2. The Joint Commissioner of Commercial Taxes, Bihar, Patna
3. The Deputy Commissioner of Commercial Taxes, South Circle, Patna.
4. The Assistant Commissioner of Commercial Taxes, Patna South Circle, Patna.
5. The Treasury Officer, Patna Sadar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Advocate.
Mr. Prince Kuamr Mishra, Advocate.
Mr. Sanket Advocate.

For the Respondent/s : Mr. Vikash Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 11-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order passed under Section 74 of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as the 'Act') by the Joint Commissioner of Commercial Taxes, Patna on 09.06.2016.

3. Learned counsel for the petitioner argued that only Commissioner is empowered to exercise the revisional jurisdiction under Section 74 of the Act, therefore, the order passed by the Joint Commissioner of Commercial Taxes is without jurisdiction.

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4. Mr. Vikas Kumar, learned counsel for the State, has pointed out that Section 2(h) of the Act defines “Commissioner” to mean Commissioner of Commercial Taxes appointed under sub-section (1) of Section 10 or Additional Commissioner of Commercial Taxes and any other officer upon whom the State Government may, by notification, confer all or any of the powers and duties of the Commissioner under this Act. He points out that by a Notification vide SO 795 dated 28.06.1986, the Joint Commissioner of Commercial Taxes has been conferred powers to exercise the powers of Commissioner within their respective Divisions.

5. In view of the delegation of the powers of the Commissioner to the Joint Commissioner of Commercial Taxes, we do not find any merit in the argument of the learned counsel for the petitioner.

6. In view thereof, the present writ application is dismissed.

7. It shall be open to the petitioner to avail alternative statutory remedy, provided the appeal is filed within 15 days from today.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A