IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2085 of 2016

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M/s Tiringa Brick, Aswari Gara, P.S.- Tisiauta, Patepur, District- Vaishali through its Proprietor Sri Sanjay Kumar, Son of Rajdeo Singh, Resident of village- Aswari, P.S.- Tisiauta, District- Vaishali

.... 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. The Deputy Commissioner of Commercial Taxes, Hazipur Circle, Hazipur, District- Vaishali
3. The Commercial Taxes Officer, Hazipur Circle, Hazipur, District- Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Purnendu Singh, Advocate.
Mr. Sanjay Kumar Tiwari, Advocate.

For the Respondent/s : Mr. Anil Kumar Sinha, G.A.- 1
Mr. Pawan Kumar, A.C. to G.A.-1

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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: 20-09-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order passed on 4th of June, 2015 under Section 28(1) of the Bihar Value Added Tax Act, 2005 (for short “the Act”) read with Section 8

of the Bihar Tax on Entry of Goods in to Local Areas for Consumption, Use or Sale Therein Act, 1993.

3. The challenge to the said order is on the ground that the proceedings have been initiated against the petitioner under Section 28 of the Act after the expiry of two years. Therefore, same is not maintainable in terms of the provisions contained in Section 28 of the Act itself.

4. A perusal of the record shows that for the Assessment Year 2012-13, a proceeding was initiated on 8th of May, 2015 i.e. after the expiry of the financial year 2012-13.

5. Section 28(1) of the Act provides that no proceedings for such assessment shall be initiated after the expiry of two years from the period for which it relates. Thus, any proceedings for the Assessment Year 2012-13 could have been initiated only up to 31st of March, 2015 and not thereafter.

6. In the counter affidavit filed, the stand of the petitioner that the proceedings were not initiated on or before 31st of March, 2015 has not been controverted.

7. Since the proceedings have been initiated in the month of May, 2015, the same is clearly beyond the period of limitation prescribed under the Act.

8. Consequently, the writ application is allowed and the

order dated 4th of June, 2015 is quashed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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