IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7077 of 2016

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Lal Babu Eit Udyog, a proprietorship concern having its office at Chonur Indrathar, P.O. Manigachhi, P.S. Manigachhi, District- Darbhanga- 847422 through its proprietor, Madan Kumar Yadav, son of Sri Ramnandan Yadav, resident of village- Chonur Indrathar, P.O. Manigachhi, P.S. Manigachhi, District- Darbhanga

.... 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. Asstt. 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. Purnendu Singh- GP-27

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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 10.07.2015 passed by the Deputy 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

Rs. 1,19,600/- 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 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.

On 20.4.2016 we had granted two weeks time to learned counsel for the State for filing counter affidavit in the matter controverting the said stand but no such counter affidavit has been filed up-till now. In several dozens of cases which we have dealt earlier of Darbhanga Circle, the State has been unable to show even in a single case of 2012-13 that proceedings were initiated on or before 31st March, 2015.

In the aforesaid circumstances, the writ application is allowed. The impugned order dated 10.07.2015 and the consequential demand notice are both quashed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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