IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7610 of 2016

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Prakash Eit Udyog, a proprietorship concern having its office at Laila Chour, P.O. Lalganj, P.S. Keoti, District - Darbhanga - 847121 through its proprietor, Binod Kumar Verma son of Late Hari Prakash Sah resident of village - Aunsi, P.O. Aunsi, P.S. Bisfi, District - Madhubani.

.... 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. Commercial Taxes Officer, Darbhanga Circle, Darbhanga.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy
Mrs. Manju Jha
Mr. Ram Naresh Jha
For the Respondent/s : Mr. Vikash Kumar, A.C. to PAAG

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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 18-05-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 13.06.2015 passed by the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga, by which he has imposed entry tax of Rs.90,000/- and penalty of Rs.1,16,900/- upon the petitioner under Section 8 of the Bihar 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 for the period 2014-15.

It is the stand of learned counsel for the petitioner that the notice of proceedings was never served upon the petitioner and the ex parte order has been passed in violation of the principles of natural justice.

In the counter affidavit filed on behalf of the State, it is submitted that a notice fixing the date of hearing on 06.06.2015 has been served upon the petitioner.

However, from a perusal of the same it appears that the so-called service by the peon only mentions that the notice was affixed. The same does not appear to be a proper service of notice in terms of Rule 50 of the Bihar Valued Added Tax Rules, 2005.

In the above circumstances, the writ application is allowed and the impugned order and consequential demand notice both dated 13.06.2015 are quashed. The matter is remanded to the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga to proceed afresh in accordance with law. However, it is made clear that no further notice of the proceedings shall be required to be issued to the petitioner, who shall appear before the assessing officer on Ist July, 2016 at 11 A.M. along with his written reply and documents and the assessing officer shall proceed to decide the matter in accordance with law.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Sudhir Singh, J)

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