IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15555 of 2015

==

Bhushan Eit Udyog, a proprietary concern having its office at Village- Pahari Benipur, P.O. Mahejan Via Benipur, P.S. Bahera, District- Darbhanga through its Proprietor, Ram Varan Mishra, Son of Sri Baidya Nath Mishra, resident of village- Pahari Benipur, P.O. Mahejan Via Benipur, P.S.- Bahera, 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. Commercial Taxes Officer, Darbhanga Circle, Darbhanga

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. D.V.Pathy
Mrs. Manju Jha

For the Respondent/s : Mr. Purnendu Singh- GP-27

==

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

4 22-01-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 15.6.2015 passed by the Respondent No.3, Commercial Taxes Officer, Darbhanga Circle, Darbhanga for the period 2014-15 by which he has imposed Entry Tax as also penalty under Section 28 of the Bihar VAT Act.

The specific stand of the petitioner is that the order has been passed ex parte without issuing notice and grant of proper opportunity of being heard to the petitioner.

Despite several adjournments having been granted in the batch of cases from the month of August, 2015 onwards, no counter affidavit has been filed assailing the said fact and bringing on record any document to show actual service of notice. Even today learned Government Pleader No. 27 submits that the statement of facts has been received for filing the counter affidavit. When pointedly asked by the petitioner whether any document has been annexed with the statement of facts to show service of notice learned Government Pleader is unable to produce before us any such document as it has not been so annexed.

In the aforesaid circumstances, the petitioner's stand is to be accepted that there was no proper service of notice upon the petitioner.

The writ application, accordingly, is allowed. The impugned order dated 15.6.2015 and the consequential demand notice are both quashed and the matter is remanded to the assessing authority to proceed afresh in accordance with law.

It is, however, made clear that no further notice shall be required to be issued to the petitioner and the petitioner shall appear before the assessing authority along with his show cause on 22nd February, 2016 at 11.00 A.M. who shall thereafter proceed to dispose of the matter expeditiously in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

U			