IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.234 of 2016

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J S I W Infrastructure Pvt. Ltd., a company, incorporated under the Companies Act, 1956 having its corporate office at JSIW House, B/S Khoraj Fly Over, S.G. Road, District- Gandhi Nagar (Gujarat) through its Manager Mr. Vishal Chaudhary, son of Shri Arunbhai Chaudhary, resident of AT Badpura, P.O. Badpura, P.S. Mansa, District- Gandhinagar, 382001.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikas Bhawan, Bailey Road, Patna
2. Asstt. Commissioner of Commercial Taxes, Integrated Check Post, Karmnasha, Kaimur

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Pawan Kumar, AC to GA-9

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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)

2 06-01-2016 Learned counsel for the petitioner submits that he would not be pressing relief no. (i) so far as quashing of the order dated 25.11.2015 is concerned, but confine the writ application with regard to prayer of release of the vehicle along with the goods and in the said circumstances, the defect as pointed out by the Stamp Reporter may not be relevant.

In view of the aforesaid submission, the present writ application shall remain confined only with regard to the relief regarding release.

The defect as pointed out by the Stamp Reporter is directed to be ignored.

Heard learned counsel for the petitioner and learned counsel for the State on the question of release.

It is submitted by learned counsel for the petitioner that the vehicle has been detained and an order of penalty has been passed under Section 60(4)(b) read with Section 56(4)(b) of the Bihar Value Added Tax Act for the sole reason that the vehicle in question had reached the Integrated Check Post 35 hours after the expiry of the time given in the e-Suvidha Form generated by the petitioner online and thereafter the fresh e-Suvidha Form was also generated yet the order imposing the penalty has been passed.

It is further submitted that the petitioner is prepared to furnish Bank Guarantee for the amount of the penalty and may be permitted to approach the statutory authority challenging the order dated 25.11.2015 passed by the Respondent No. 2, the Assistant Commissioner, Commercial Taxes, Integrated Check Post, Karmnasha, Kaimur.

On a consideration of the facts and circumstances of the case, it is directed that the transport vehicle being truck No. RJ01 GA – 1617 along with the goods laden thereon shall be released forthwith upon the petitioner furnishing Bank

Guarantee for the amount of Rs. 12,85,050/- before the Respondent No.2.

It shall be open to the petitioner to challenge the order dated 25.11.2015 in accordance with law.

The writ application is disposed of with the aforesaid observations and directions.

Learned counsel for the State shall inform the Respondent No. 2 about this order so that the vehicle may be released without insisting upon a certified copy of the order immediately.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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