IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10215 of 2016

==

M/s Gupta Power Infrastructure Ltd.having it's office at Cuttack Puri Road, opposite Bhuneshwari Mandir, Bhubaneshwar – 751006 Odisha through it's Logistic Manager, namely, Pravin Kumar Agrawal, son of Rajendra Kumar Agrawal, resident of Flat No. 627, Balajee Complex, Jail Road, P.O. Jharpada, P.S. Laxmi Sagar, Kharpada, Bhubaneshwar - 751006, Odisha

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, New Secretariat, Patna
2. The Commissioner of Commercial Taxes, Bihar, Patna, New Secretariat, Bailey Road, Patna
3. The Deputy Commissioner of Commercial Taxes, Integrated Check post, Dobhi, Gaya
4. The Commercial Taxes Officer, Integrated Check Post, Dobhi, Gaya

.... Respondents

==

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal &
Mr. P.K.Mishra, Advocates

For the State : Mr. Vikash Kumar, AC to PAAG

==

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 01-07-2016

Heard learned counsel for the petitioner and learned counsel for the State.

The writ application has been filed for quashing of the order dated 10.06.2016 and consequent demand notice dated 10.06.2016 passed and issued by the Respondent No. 4, the Commercial Taxes Officer, Integrated Check Post, Dobhi, Gaya under Section 60(4) (b) read with Section 56(4)(b) of the Bihar Value Added Tax Act, 2005 imposing three times penalty upon the petitioner.

In view of the fact that alternative statutory remedy is available to the petitioner, we are not inclined to hear the matter on merits under the writ jurisdiction and accordingly, learned counsel for the petitioner has confined his prayer to release of the truck along with the goods laden thereon. It is however, submitted by learned counsel for the petitioner that a gross error has been committed by the Commercial Taxes Officer in the matter of imposing penalty treating the tax at the rate of 14.5% whereas under Schedule-III, Part-I, Entry – 9, the AAAC is a commodity exigible to tax at the rate of 5%. So far as the said issue is concerned, we express no final opinion on the matter and it would be for the petitioner to agitate the same before the appellate authority who shall decide the matter in accordance with law.

However, taking a prima facie view of the matter, it is directed that upon the petitioner furnishing bank guarantee for Rs. 5.50 lacs before the Respondent No. 4, the truck along with the goods laden thereon shall be released forthwith.

The writ application is disposed of with the aforesaid directions giving liberty to the petitioner to avail of its statutory remedy in the matter.

Learned counsel for the State shall inform the

Respondent No. 4 about this order so that the truck and the goods laden thereon shall be released without insisting upon the certified copy of this order.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.06.2016
Transmission Date	