IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14993 of 2016

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Tata Projects Limited, a company incorporated under the Companies Act, 1956, having its corporate office at 1-7-80 to 87, Prenderghast Raod, Secunderabad, Telangana and Branch Office at 203, Shanti Complex S.P.Verma Road Patna through its General Manager, Finance & Accounts, Santanu Chakraborti son of Sri Nares Chandra Chakraborti, Resident of P-12 Laxmi Narayan Apartment, PO S.D. Road, P.S. Ram Gopalpet, Secunderabad Telangana.

.... Petitioner/s

Versus

1. State of Bihar through the Commissioner of Commercial Taxes Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Asst. Commissioner of Commercial Taxes, Patliputra Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate.
Ms. Manju Jha, Advocate.

For the Respondent/s : Mr. Vikash Kumar, SC-11
Mr. Sriam Krishna, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 06-09-2016

Heard learned counsel for the parties.

2. The challenge in the present writ petition is to an order dated 20th July, 2016 passed by the Assistant Commissioner of Commercial Taxes whereby the assessment order has been framed under the Bihar Value Added Tax Act, 2005 (hereinafter referred to as the ‘Act’).

3. The argument of learned counsel for the petitioner is that reasonable opportunity, before framing of said assessment, was not provided to the petitioner. He refers to the interim order passed by

the Assessing Officer in support of his contentions.

4. A perusal of the interim order shows that on 10th May, 2016, notice for framing of assessment was issued for 25th May 2016, but the matter was not taken up on 25th May, 2016. On 4th July, 2016, when the matter was taken up, another notice was ordered to be served for 12th July, 2016. Mr. D.B.Gupta, Advocate for the petitioner, put in appearance on 12th July 2016. Thereafter, another notice was ordered to be served for 16th July, 2016 through e-mail. E-mail was received, but the representative of the petitioner responded to such notice on 16th July, 2016 at 3:55 P.M through e-mail. The e-mail on behalf of the petitioner is to the effect that none of the representatives of the company is at Patna and sender of the e-mail is at Jammu and their counsel Mr. D.B.Gupta would be out of station on 16th July,2016, therefore, another date may be fixed. None appeared on behalf of the petitioner on 16th July, 2016.

5. Learned counsel for the petitioner contends that the petitioner is entitled to benefit of input tax credit deducted at source for which documents have to be called for from its office at Secunderabad. Therefore, it was not possible for the petitioner to produce the documents in short time.

6. We do not find that such contention can be accepted. The petitioner was informed on 10th May, 2016 regarding assessment.

All documents should have been collected for production before the Assessing Officer at the relevant time, but the e-mail, which was sent on 12th July, 2016, was responded only on 16th July, 2016 and that too almost at the fag end of the day. Since before that day, the petitioner had almost two months time to arrange for production of the documents at Patna before the Assessing Officer. But since the documents were not produced and in fact even the e-mail was responded at the fag end of the day on 16th July, 2016, we do not find that the petitioner is entitled to any indulgence at this stage, when the petitioner has effective alternate remedy of appeal. The petitioner is at liberty to avail remedy of appeal against the order of assessment in accordance with law.

7. The writ petition is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	14.09.2016
Transmission Date	