

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3023 of 2016

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M/s Action Construction Equipment Ltd., having its Head Office at 5th Floor TDI Centre, SARITA VIHAR, P.O. & P.S. Jasola, New Delhi- 110075, through its Senior Executive and Authorized Signatory, Mr. Enamul Haque Ansari, S/o Mr. Dost Mohd Ansari

.... Petitioner/s

Versus

1. The State of Bihar, through Commissioner of Commercial Taxes, Bihar, Patna, having its office at Vikash Bhawan Bailey Road, Patna.
2. Assistant Commissioner of Commercial Taxes, Integrated Check Post, Karmanasha, Kaimur (Bhabhua), Bihar
3. Commercial Tax Officer, Integrated Check Post, Karmanasha, Kaimur (Bhabhua), Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Viveka Nand, Advocate.
Mrs. Manju Jha, Advocate.
Mr. Pankaj Kumar Sinha, Advocate.

For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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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: 05-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order passed by the Incharge Assistant Commissioner of Commercial Taxes, Integrated Check Post, Karmanasha, Kaimur (Bhabhua) on 18th of December, 2015 in exercise of the powers conferred under Section 60(4)(b) read with Section 56(4)(b) of the Bihar Value Added Tax Act, 2005.

3. Learned counsel for the petitioner argued that the State of Bihar has no legislative competence on “deemed sale” in

terms of Article 286(3) of the Constitution of India.

4. We find that the petitioner can raise all questions of law and facts in an appeal against the said order. Against the order passed, the petitioner has an effective statutory remedy of appeal. Therefore, we refrain ourselves from examining the legality and validity of the order passed in the present writ application. It shall be open to the petitioner to avail such other alternative remedy as the petitioner may consider appropriate to invoke. As and when petitioner invokes such jurisdiction, the same shall be decided in accordance with law.

5. The writ application is, thus, dismissed with liberty aforesaid.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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