IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4923 of 2016

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M/s Radha Int through its Proprietor, Nitish Kumar Yadav Son of Sri Sitaram Yadav resident of village - Ramauli, P.S. Hayaghat, District - Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Commercial Taxes Department, Bihar
2. The Principal Secretary, Commercial Taxes Department, Government of Bihar, Patna
3. The Deputy Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga
4. The Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Krishna Chandra
For the Respondent/s : MrVikash Kumar, AC to PAAG

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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)

5 26-04-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The writ application has been filed for quashing of the ex parte order dated 29.6.2015 and the Demand Notice dated 2.7.2015 issued from the office of the Deputy Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga by which the petitioner has been directed to pay tax to the tune of Rs. 2,90,000/- under Section 31(1) of the Bihar Value Added Tax Act, 2005 for the period 2012-13.

The stand of learned counsel for the petitioner is that no notice was ever served upon the petitioner and thus the order in question is non est in the eye of law.

In the counter affidavit filed on behalf of the State, it is stated that the notice was sent by post. From the document enclosed which is a copy of the relevant Dispatch Register, it is found that the notice in question has been sent affixing postal stamp of Rs. 5/-.

In the aforesaid circumstances, it cannot be deemed to be valid service in terms of Rule 50 of the Bihar VAT Rules.

The writ application is, accordingly, allowed. The impugned order dated 29.06.2015 and the Demand Notice dated 02.07.2015 are both quashed and the matter is remanded to the Assessing Officer to proceed afresh in the matter in accordance with law.

It is made clear that no fresh notice of the proceedings shall be required to be issued to the petitioner and the petitioner shall present itself before the concerned Assessing Officer on 17th May, 2016 at 11.00 A.M. with its reply/written statement and relevant documents whereupon the concerned Assessing Officer shall proceed to dispose of the matter in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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