IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5043 of 2016

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M/s Sidhumal through its Proprietor Sidhumal Son of Late Dhanumal resident of Village -Rajkumar Ganj, PS town, District Darbhanga.

.... 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 Commercial Taxes, Darbhanga Cirlce Darbhanga.
4. The Assitant 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 : Mr. Anil Kumar Sinha, G.A.9
Mr. Pawan Kumar, A.C. to G.A.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)

4 12-04-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the ex parte order dated 23.06.2015 and demand notice dated 23.06.2015 issued from the office of the Deputy Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga, by which the petitioner has been directed to pay Entry Tax of Rs.90,000/- and penalty of Rs.1,17,900/- under the provisions of Section 8 of Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 read with Section 28 of the Bihar VAT Act, 2005 for the period 2013-14.

The stand of learned counsel for the petitioner is that before passing of the said order, no notice has been served upon the petitioner and wrong stand has been taken in the impugned order that the notice was issued and service report is on the record,

From the counter affidavit filed on behalf of respondent Nos. 2 and 3, it is evident that no reply with respect to paragraph No.16 of the writ petition has been made and nothing has been brought on the record to show that the notice was ever served upon the petitioner.

In the above circumstances, the writ application is allowed. The impugned order dated 23.06.2015 and the demand notice dated 23.06.2015 are both quashed and the matter is remanded to the assessing authority to proceed afresh in accordance with law.

It is, however, made clear that no further notice shall be required to be issued to the petitioner and the petitioner shall appear before the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga on 3rd May, 2016 at 11 A.M. along with its reply and documents in support of its stand whereupon the said respondent shall proceed to decide the matter in accordance with law.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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