IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7110 of 2016

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Ajanta Enterprises, a partnership firm having its office at Chausa, P.O. Chousa, P.S. Sadar, District - Darbhanga - 8456007 through its partner, Vijay Prasad Singh son of Late Mahendra Prasad Singh resident of Village - Mishry Ganj Bhanglagarh, P.O. Lalbagh, P.S. L.N.M.U., District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna, having its office at Vikash Bhawan, Bailey Road, Patna.
2. Dy. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga.
3. Asstt. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy
Mrs. Manju Jha

For the Respondent/s : Mrs. Nivedita Nirvikar- GA10

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 11-05-2016

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

The petitioner seeks quashing of the order dated 30.06.2015 passed by the Assistant Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga under Section 8 of the Bihar on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 read with Section 28(1) of the Bihar Value Added Tax Act, 2005 by which he has assessed Entry Tax of Rs. 90,000/- and penalty of Rs. 1,18,600/- has been imposed upon the petitioner for the year 2012-13.

Learned counsel for the petitioner submits that the proceeding was time barred as it has been initiated after 31.3.2015, for the period 2012-13 as per the provisions laid down under Section 28(1) of the Bihar Value Added Tax Act.

In the counter affidavit filed on behalf of the State reference is made to a notice 31.12.2014 which is stated to have been received on 19.01.2015 by the petitioner. The said notice is only for payment of arrears of tax with the further warning that in case it was not paid then the proceeding under the Bihar Value Added Tax Act would be initiated.

So far as the notice of the proceeding is concerned, it is clear from the counter affidavit itself that the proceeding has been initiated by order dated 16.4.2015 and notice was accordingly directed to be issued. Evidently, the proceeding was time barred on the date when it was initiated.

In the aforesaid circumstances, the writ application is allowed. The impugned order dated 30.06.2015 as also consequential demand notice dated 30.06.2015 are both quashed.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	