IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6970 of 2016

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Aman Eit Udyog, a proprietorship concern having its office at Chhatwan, P.O. Chhatwan, P.S. Keoti, District- Darbhanga- 847337 through its proprietor, Md. Murtuja, Son of Md. Motiur Rahman, resident of Village- Chhatwan, P.O. Chhatwan, P.S. Keoti, District- Darbhanga- 847337.

.... Petitioner

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. Commerical Taxes Officer, Darbhanga Circle, Darbhanga.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy, Advocate
For the Respondent/s : Mr. Raj Nandan Prasad, S.C. 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)

3 04-05-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 10.6.2015 passed under the provisions of Section 8 of the Bihar Tax On Entry of Goods into Local Area for Consumption, Use or Sale therein Act, 1993 read with Section 28(1) of the Bihar Value Added Tax Act, 2005 for the period 2013-14 by which tax of Rs.90,000/- has been levied and penalty of Rs.1,16,600/- has been imposed upon the petitioner.

The main ground taken by the petitioner is that the ex parte order of assessment has been passed without service of notice.

In the counter affidavit filed on behalf of the State, copy of the notice along with the service report at the back of the said notice has been brought on the record. It is stated that the notice has been served upon the petitioner on 20.5.2015. In the said document it appears that one Aman has signed the same in English on 20.5.2015 as token of having received the same but it is not stated in the service report or even in the counter affidavit as to how he is related to the proprietor of the firm, Md. Murtuja.

In the above circumstances, it does not appear that proper service of notice has been made upon the petitioner before passing the impugned order.

The writ application is, accordingly, allowed. The impugned order dated 10.6.2015 and the consequential demand notice are both quashed and the matter is remanded to respondent No.3, the Commercial Taxes Officer, Darbhanga Circle, Darbhanga to proceed afresh in accordance with law.

The petitioner, however, shall not be required to be issued any further notice in the matter, but shall appear before the Assessing Authority on 25th May, 2016 at 11 A.M. along with its reply and the relevant documents, whereupon the Assessing Authority shall proceed further in the matter in accordance with law.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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