**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.8773 of 2016**

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Mr. Rajan Kumar, s/o Bhadai Mandal, aged about 22 years, resident of village-Bhagahaa, P.S. Bela, P.O. Manpaur, District-Sitamarhi, Bihar and driver of the truck No.HR38 R/8085 of M/s. New Prakash Roadways, 38 Bata Railway Crossing, Faridabad-121001, Haryana.

.... .... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary-cum-Principal Secretary, Commercial Taxes Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. Assistant Commissioner, Check Post of Bihar Commercial Tax Department, Jalalpur, Gopalganj, Bihar
3. Commercial Tax Officer, Check Post of Bihar Commercial Tax Department, Jalalpur, Gopalganj, Bihar.
4. Officer in Charge, Check Post of Bihar Commercial Tax Department, Jalalpur, Gopalganj, Bihar.

.... .... Respondent/s

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**Appearance :**
For the Petitioner/s : Mr. Vikas Kumar
For the Respondent/s : Mr. Gyan Prakash Ojha, G.P.22

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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)**

2 18-05-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the seizure memo and show cause notice both dated 19.04.2016 and for provisional release of the vehicle along with the goods laden thereon.

The stand of the petitioner is that the vehicle along with the goods were carrying all the necessary documents which were meant for export from Greater Noida, U.P. to Kathmandu, Nepal (C.G. Impex Pvt. Ltd.), for which the truck in question was to cross Raxaul land custom station. The goods were being carried with export invoice-cum-packaging list, ARE-1 form of Central Excise for export without payment of duty, letter to Range Office of Central Excise Department for exporting without payment of duty under self sealing, letter of credit and transport bilty. After crossing geographical boundary of the State of U.P., it is asserted by the petitioner that after entering into the geographical boundary of the State of Bihar, the petitioner-driver had stopped the truck almost half kilometer behind the integrated check post, Jalalpur, Gopalganj and he proceeded to the check post counter to seek assistance and verify whether the documents are in compliance or not for transporting the goods through the check post in question.

However, on 19.04.2016, the Sales Tax Officer instead of assisting the driver seized all his documents as also the truck and the goods laden thereon, as they were not accompanied with Form D-VII as required under the Bihar VAT Act and Rules. It is also alleged that signatures of the semi-literate driver were also taken on few other papers under coercion and undue pressure, of which the driver has no understanding. A show cause notice was also issued to the petitioner. The petitioner appeared through counsel on 21.04.2016 seeking provisional release of the vehicle along with goods against a suitable security by way of bank guarantee but no heed is being paid by the respondent officials of the Commercial Taxes Department.

Before us, learned counsel for the petitioner confines his submission to the release of the truck so that the goods can be exported, as the letter of credit is going to expire on 25.05.2016, for which it is submitted that he has been informed by the officials that the penalty, if levied, would be Rs.15,56,701/-.

On a consideration of the facts and circumstances of the case, it is directed that upon furnishing of bank guarantee for the amount of Rs.15,56,701/-, the respondent No.2, Assistant Commissioner, Integrated Check post, Jalalpur, Gopalganj shall forthwith release the truck along with the goods laden thereon along with all other documents submitted by the petitioner which are necessary for the petitioner for the purpose of export of goods in question. A photo copy of the said documents duly attested by the petitioner may, if required, be retained by the officials for the purpose of proceedings before them. The petitioner shall, thereafter, co-operate with the authorities of the Commercial Taxes Department in the disposal of the matter before them.

Learned counsel for the State shall inform the respondent No.2 about this order so that the goods may be released immediately after receipt of the bank guarantee without waiting for the certified copy of the order.

From the averments made in the writ petition, it does appear to be a case that instead of assisting the semi-literate driver in the matter, the authorities have sought to take undue advantage. The driver as per his version has not crossed the Jalalpur Integrated Check Post and it is not open to the respondents to have made the seizure, particularly considering the fact that according to the petitioner-driver he had gone to the check post before crossing it for verifying the matter whether the documents are in order or not and instead of assisting the driver in the matter who was carrying all the necessary documents for the purpose of export of goods, the respondents have wrongly acted in the matter.

The writ application is, accordingly, disposed of with the aforesaid directions and observations.

**(Ramesh Kumar Datta, J)**

V.P.Sinha/-

**(Sudhir Singh, J)**

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