IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3400 of 2015

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M/s. Chandrasekhar is a small dealer in Proprietorship status, having its registered shop at Golghar, opposite new police lines, Budha Marg, Patna through its Proprietor Chandrashekhar, son of Ram Kripal Singh, resident of Golghar, P.O- G.P.O., P.S.- Kotwali, District- Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
3. The Secretary, Bihar State Excise Deptt, having its office at Vikash Bhawan, Patna- 800001.
4. Bihar state Beverages Corporation LTD , State of Bihar having its office at Vidyut Bhawan, Patna- 800001.
5. Chairman, Board Of Revenue, State of Bihar having its office at Old Secretariat, Patna-800001.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. R.K.Agrawal with M/S Sanjay Kumar Mishra, Shive Kumar, Advocates
For the State	:	Mr. Vikash Kumar, AC to PAAG
For BSBCL	:	Mr. Vikas Kumar with Mr. Girijesh Kumar, Advocates

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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)

16 29-03-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The writ application was filed originally challenging the Notification dated 21.1.2015 issued by the Commissioner of Commercial Taxes by which VAT was levied on every point of sale of India Made Foreign Liquor of which the petitioner is a retail seller. During the pendency of the writ application an order dated 20.11.2015 was passed by the Commercial Taxes Officer, Patna Central Circle, Patna and a demand notice of the same date was also issued directing the petitioner to pay tax, penalty and interest amounting to Rs.20,60,747.39 after giving benefit of Rs.3 lacs paid as tax by the petitioner for the period 2015-16. Now only the said demand notice and the order dated 20.11.2015 are under challenge in this writ application.

It is submitted by learned counsel for the petitioner that the order has been passed without issuing any notice to the petitioner and without giving an opportunity of hearing to the petitioner. It is also the stand of the petitioner that the demand has been raised on the basis of MRP which is not permissible.

Learned counsel for the State, on the other hand, relies upon certain notices issued, copies of which have been brought on the record. The same, however, relate to the period 2014-15 and not for the period 2015-16 and thus the claim of the petitioner regarding non-issuance of notice for the period 2015-16 stands uncontested.

In the aforesaid circumstances, the writ application is allowed to the extent that the impugned demand notice dated 20.11.2015 and the order dated 20.11.2015 are both quashed. The respondents shall have liberty to pass fresh order in the matter in accordance with law. In view of the fact that we have quashed the demand notice and the order, no further notice is required to be issued to the petitioner in the matter.

It is made clear that the petitioner shall file its return as also its show cause with regard to the levy of tax and penalty for the period 2015-16 by 18th April, 2016 and thereafter shall personally appear before the Commercial Taxes Officer on 2nd May, 2016 at 11 A.M., upon which the Commercial Taxes Officer shall proceed in the matter in accordance with law.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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