IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6882 of 2016

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Raj Kumar Hoiyani, a proprietorship firm having its office at Harhachcha, P.O. Harhachcha, P.S. Baheri, District- Darbhanga- 847101 through its proprietor, Raj Kumar Hoiyani, Son of Late Udha Ram, resident of village- Raj Kumar Ganj, P.O. Lalbagh, P.S. Town, District- Darbhanga

.... 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. Commercial 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. Anil Kumar Sinha, 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)

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

The petitioner has come up to this Court against the order dated 15.6.2015 passed by the Commercial Tax Officer, Darbhanga Circle, Darbhanga under 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 2014-15 levying entry tax of Rs.90,000/- and imposing penalty of Rs.1,17,100/- and the consequential demand notice.

The stand of the petitioner is that the said ex parte order has been passed without service of any notice upon the petitioner.

In the counter affidavit filed on behalf of the State in reply to the statement made in paragraph-7 of the writ application it is stated that it is a matter of record. Thus the said contention of the petitioner has not been controverted.

In the above circumstances, the impugned order has been passed in violation of the statutory rules as also the principles of natural justice.

The order dated 15.6.2015 and the consequential demand notice are both quashed and the matter is remanded to the Assessing Officer to proceed afresh in accordance with law.

However, it is made clear that no further notice shall be required to be issued to the petitioner, who shall appear before the Assessing Authority on 25th May, 2016 at 11 A.M. along with its reply and documents, who shall thereupon proceed in the matter in accordance with law.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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