IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7353 of 2016

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Shahi Eit Udyog, a proprietorship concern having its office at Chatwan, P.O. Chatwan, P.S. Keoti, District Darbhanga- 847337 through its Proprietor, Md. Mustafa, son of Late Md. Motiur Rahman, resident of Village- Chatwan, P.O. Chatwan, P.S. Keoti, District- Darbhanga- 847337. ... . 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. Commercial Taxes Officer, Darbhanga Circle, Darbhanga. ... . Respondent/s

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Appearance :

For the Petitioner : Mr. D.V.Pathy, Advocate
Mrs. Manju Jha, Advocate
Mr. Ram Naresh Jha, Advocate

For the State : Mr. Purnendu Singh, GP-27

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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: 10-05-2016

Heard learned counsel for the petitioner and learned Government Pleader No. 27, for the State.

The petitioner seeks quashing of the order dated 29.6.2015 passed by the Commercial Taxes Officer, Darbhanga Circle, Darbhanga under the provisions of the Bihar Tax 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, for the period 2014-15 by which he has imposed Entry Tax of Rs. 90,000/- and penalty of Rs. 90,000/-.

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 the said contention has not been specifically answered except to state that notices were issued on 14.06.2015 fixing the date of hearing on 24.06.2015 and upon non-appearance of the petitioner ex parte order was passed on 29.06.2015.

In the above circumstances, there has been violation of the statutory procedure and denial of natural justice to the petitioner.

The writ application is, accordingly, allowed. The impugned order dated 29.06.2015 and the consequent demand notice dated 2.7.2015 are accordingly quashed.

However, it shall be open to the Respondent No. 3 to proceed afresh in the matter in accordance with law and for the said purpose no further notice shall be required to be issued to the petitioner who shall appear before the Respondent No. 3 on 31st May, 2016 at 11.00 A.M. along with his reply/written statement and documents in support of its claim whereafter the Assessing officer shall proceed in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	
CAV DATE	
Uploading Date	16.5.2016
Transmission Date	