IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7522 of 2016

==

Lal Babu Eit Udyog, a proprietorship concern having its office at Chonur Indrathar, P.O. Manigachhi, P.S. Manigachhi, District- Darbhanga-847422 through its proprietor, Madan Kumar Yadav, son of Sri Ramanand Yadav, resident of village-Chonur Indrathar, P.O. Manigachhi, P.S. Manigachhi, District- Darbhanga-847422

.... 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. Asstt. Commissioner of Commercial Taxes, Darbhanga Circle, Darbhanga

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. D.V.Pathy

For the Respondent/s : Mr. Purnendu Singh- GP27

==

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 11-05-2016

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 10.07.2015 passed by the Assistant Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga under Section 8 of the Bihar 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, 2005 by which he has assessed Entry Tax of Rs. 90,000/- and penalty of Rs. 1,19,000/-, for the year 2014-15.

The main submission of learned counsel for the petitioner is that the ex parte order has been passed without service of any notice upon the petitioner.

In the counter affidavit filed on behalf of the State although it is stated that notices were issued on 30.5.2015 fixing the date of hearing on 19.6.2015 but upon the petitioner not appearing in the matter, the ex parte order was passed on 10.7.2015, however, nothing has been brought on the record to show that the notice was duly served upon the petitioner. Thus, the stand of the petitioner remains uncontroverted.

In the aforesaid circumstances, the writ application is allowed. The impugned order dated 10.07.2015 and the consequential demand notice dated 17.7.2015 are both quashed and the matter is remanded to the Assistant Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga to proceed afresh in accordance with law.

It is however, made clear that no fresh notice shall be required to be issued to the petitioner who shall appear before the Assistant Commissioner, Commercial Taxes, Darbhanga Circle, Darbhanga on 1st July, 2016 at 11.00 A.M. along with his reply and documents upon which the respondent No. 3 shall decide the matter afresh in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	
CAV DATE	
Uploading Date	22.06.2016
Transmission Date	