

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.12680 of 2016**

- =====
1. Jai Ambey Cargo Movers Pvt. Ltd., a Company incorporated under the Companies Act, having its Registered Office at 1B, Ramlochan Mullick Street, 1<sup>st</sup> Floor, Room No. 108, Kolkata-700073 through it's one of Directors Dipak Agarwal, son of Sri Sanjay Agarwal, resident of Shree Ram Kunj Apartment, 21 Banarshi Ghosh Street, P.O & P.S.- Bara Bazar, Kolkata-700007 (West Bengal).
  2. Brijesh Kumar Upadhyay, son of Sri R.R.Upadhyay, resident of village Birnai, P.O- Bairi Visa, PS- Gopiganj and District S.R.N.Bhadohi (U.P.).

.... .... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar having its office at Vikash Bhawan, Bailey Road, Patna
2. The Commercial Taxes Officer, Integrated Check Post, Dalkola, Purnea, Bihar.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Ramesh Kumar Agrawal, Advocate.  
Mr. Shiv Kumar, Advocate.

For the Respondent/s : Mr. Vikash Kumar, SC 11

=====

**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)**

**Date: 05-08-2016**

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

Though in the present writ petition, the petitioner sought to release of the truck bearing Registration No. WB 11B 2003, which was intercepted at the Integrated Check Post, Dalkola, Purnea, but keeping in view of the fact that during the pendency of the writ petition, a penalty order was imposed. Therefore, learned counsel for the petitioner submits that he will take recourse to his statutory remedies under the Act against the

order imposing penalty dated 11.07.2016 under Section 60(4)(b) read with Section 56(4)(b) of the Bihar Value Added Tax Act, 2005 but in the meantime, the transport vehicle along with the goods laden thereon may be directed to be released on production of Bank Guarantee to the extent of the penalty levied.

The writ application is, accordingly, disposed of with a direction that upon the petitioner furnishing Bank Guarantee for Rs.2,30,240/-, the vehicle in question shall be released forthwith by the respondents. Thereafter, petitioner shall be entitled to file an appeal. If the appeal is not filed within 30 days of the furnishing of the bank guaranty, the respondent shall be entitled to encash the bank guarantee in accordance with law.

Learned State Counsel is directed to inform the respondent-authorities about this order who shall ensure release of the vehicle No. WB 11B 2003 along with the goods without insisting upon a certified copy of the order.

**(Hemant Gupta, J)**

**(Ahsanuddin Amanullah, J)**

Sujit/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          |            |
| Uploading Date    | 09.08.2016 |
| Transmission Date |            |