

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5954 of 2017

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M/s Vaibhav Edibles Pvt. Ltd., through its Manager, Santosh Kumar Sharma, S/o Late R.S. Sharma, aged 44 years, resident of Siyaram Complex, Balthura Beda, G.T. Road, P.S.- Sasaram, District- Rohtas. Petitioner

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna.
 2. The Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna.
 3. The Deputy Commissioner of Commercial Taxes, Sasaram Circle, Sasaram.
 4. The Deputy Commissioner of Commercial Taxes, Investigation Bureau, Tirhut Division, Muzaffarpur. Respondent/s
- =====

Appearance:

For the Petitioner/s : Mr. Archana Sinha @ Archana Shahi, Advocate.

For the Respondent/s : Mr. Vikas Kumar, AC to PAAG I.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2017

Having heard learned counsels for the parties, we are of the considered view that with regard to imposition of penalty and liability upon the petitioner under The Bihar Value Added Tax Act the petitioner should obtain a copy of the impugned order and challenge the same by filing an appeal before the statutory appellate authority.

However, as far as release of the truck in question is concerned, considering the fact that the goods in the truck are perishable in nature and if not released to the petitioner within a reasonable period it may cause irreparable damage to the petitioner. Interest of justice would be met in case the articles are protected and the truck in question is released along with the goods on certain



conditions. Keeping in view of the aforesaid, we dispose of the Writ Petition with the following directions:-

- (i) In case the petitioner files an application for grant of certified copy of the order imposing penalty, the competent authority shall issue the order to the petitioner within one week of its presentation and 15 days thereof the petitioner shall file an appeal before the competent appellate authority and the appellate authority, after hearing the parties, shall dispose of the appeal in accordance with law within 60 days thereafter.
 - (ii) In the meanwhile if the petitioner files an application and submits a bank guarantee to the tune of Rs. 2,16,000/- (Two lacs sixteen thousand), the truck in question bearing no. UP78BT5307 along with the goods in the truck shall be released to the petitioner. The bank guarantee to be furnished by the petitioner shall remain valid for a period of one year from the date of its issue or till decision on the application whichever is earlier.
- With the aforesaid, the Writ Petition stands disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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