**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.14862 of 2016**

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M/s Manish Int Udyog through its Proprietor, Sri Mahavir Mahto, son of Late Pitamber Mahto, resident of Village- Fardaha, P.S. Bahera, District-Darbhanga. .... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Commercial Taxes Department, Bihar.
2. The Principal Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. The Deputy Commissioner Commercial Taxes, Darbhanga, Circle, Darbhanga.
4. The Assistant Commissioner of Commercial Taxes, Darbhanga, Circle, Darbhanga.
5. The Commercial Tax Officer, Darbhanga, Circle, Darbhanga.

.... .... Respondent/s

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**Appearance :**
For the Petitioner/s : Mr. Krishna Chandra, Advocate
For the Respondent/s : Mr. Kumar Pankaj, Ac to SC-5

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

ORAL ORDER
**(Per: HONOURABLE THE CHIEF JUSTICE)**

5 19-12-2017 The matter is pending since 02.09.2016. On 06.09.2016, 22.09.2016, 20.10.2016 and again on 17.11.2016, time was granted to the respondent Revenue to demonstrate before this Court that the ex-parte assessment order in question was passed after due notice to the assessee except for indicating in the order that assessee in spite of service of notice has not come, the Revenue has failed to discharge his burden. Demonstrating before this Court as to why and how and in what manner notices were served on the assessee and why ex-parte proceedings were taken.

We have granted respondents four opportunities to file their counter affidavit and justify their action in proceeding ex-parte, but they have measurably failed to do so.

Now today, we do not find it appropriate to keep the matter pending instead, it would be in the interest of all the concerned, to quash the order of assessment and remand the matter back to reassessment in accordance with law.

Keeping in view the fact that the order of assessment has been passed ex-parte behind the back of the petitioner and prima facie we satisfy that it has been done without grant of due opportunity, we allow this petition, quash the order Annexure-1, dated 03.07.2015 and direct the petitioner to appear before the assessing officer along with the certified copy of this order and all relevant books of account and other materials on 05.02.2018 and on the same being done, the assessing officer shall be free to proceed in the matter in accordance with law and pass a fresh order of assessment. In case, the appellant defaults in appearing before the assessing officer on the date fixed, the order passed by the assessing officer (Annexure-1) shall review and can be implemented by the assessing officer.

With the aforesaid, this application stands disposed of.

**(Rajendra Menon, CJ)**

**(Anil Kumar Upadhyay, J)**

Uday/-

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