IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10871 of 2016

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East North Interconnection Company Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at F-1, Mira Corporated Suiet, Mathura Road, Ishwar Nagar, P.O.+ P.S. New Friends Colony, New Delhi-Budha Dental College), P.O. + P.S. Kankarbagh, District- Patna through its Assistant Manager (Taxation), Rajeev Kumar Bharti, Son of Sri R.N. Roy, resident of B-68 (2nd Floor), Uttam Nagar, P.O. + P.S.- Uttam Nagar, New Delhi- 110059.

.... Petitioner/s

Versus

1. State of Bihar through Commissioner of Commercial Taxes, Bihar having its office at Vikas Bhawan, Bailey Road, Patna.
2. Asstt. Commissioner of Commercial Taxes, Patliputra Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D. V. Pathy, Advocate
Mr. Sadashiv Tiwari, Advocate

For the Respondent/s : Mr. Lalit Kishore (AG)

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 27-11-2017

Having heard learned counsel for the parties and keeping in view the order passed in C.W.J.C. No. 10819 of 2016, C.W.J.C. No. 11064 of 2016 and C.W.J.C. No. 11362 of 2016 between the petitioner and the respondent State Government decided on 27.07.2016, we grant liberty to the petitioner to take recourse to the alternative remedy for challenging the order of assessment and, as far as penalty is concerned, we direct that as penalty has been imposed without issuing notice to the petitioner, the same is unsustainable. The respondents are at liberty to take recourse to imposing penalty after following due process of law.

In view of the above, we dispose of this writ petition also in identical terms as are contained in order dated 27.07.2016 passed by a Co-ordinate Bench of this Court in C.W.J.C. No. 10819 of 2016 and other analogous cases, as detailed hereinabove.

In case, the appeal is filed within a period of four weeks from today, the same shall be decided on merit in accordance with law and till appropriate order is not passed on the appeal by the competent authority, recovery of the assessment amount shall be kept in abeyance.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.12.2017
Transmission Date	NA