IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17606 of 2016

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M/s Kohinoor Boot House, Buxar, T.I. No. 10030051037 through its Proprietor Md. Amjad Faridee son of Haji Md. Nezamuddin Faridee resident of Jahaz Ghat, P.O., P.S. and District : Buxar.

.... Petitioner

Versus

1. The State of Bihar through the Commissioner, Commercial Taxes, Vikash Bhawan, Bailey Road, Patna.
2. The Deputy Commissioner, Commercial Taxes, Buxar Circle, Buxar.
3. The Commercial Taxes Officer, Buxar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate
Md. Najmul Hodda, Advocate

For the Respondent/s : SC-2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
And
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 18-12-2017

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

Prima facie we are satisfied that the petitioner was not given proper opportunity to either explain himself or defend himself on the question of the liability which has been created in terms of the order dated 25.01.2016 purportedly passed under Section 33 of the Bihar Value Added Tax, 2005. The order itself indicates that it is *ex parte* order, and therefore, in the interest of fair play, the impugned order dated 25.01.2016, fixing a liability of Rs. 10,99,949.00, as now the consequential notice No. 126

dated 27.01.2016 passed by the Commercial Tax Officer, Buxar under Section 31 & 39 of the Bihar Value Added Tax, is also set aside.

The petitioner will appear before the Assistant Commissioner, Commercial Taxes, Buxar Circle, Buxar with a copy of this order on the 4th of January, 2018. The Assistant Commissioner, thereafter, will fix a date for hearing of the matter in which the petitioner shall render full cooperation and will not try to play games by seeking frivolous adjournment or avoid proper assistance in the adjudication. The decision, thereafter, will be rendered on the deliberation and the explanation which the petitioner will have to offer before the said authority.

The writ application is disposed off with the above leeway and direction.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2017
Transmission Date	NA