

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15336 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)

4 19-12-2017 The matter is pending since 09.09.2016. On
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 three 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)

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