IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20258 of 2016

Rajesh Kumar, a proprietorship firm Rajopatti, Dumara Road, District- Sitamarhi through its Proprietor namely Rajesh Kumar, S/o Sri Ramanek Singh, resident of Ward No.28, behind Ganesh Petrol Pump, P.S.- Sitamarhi, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Bihar Patna having its Office at Vikas Bhawan, Patna.
2. The Deputy Commissioner of Commercial Taxes Sitamarhi Commercial Taxes Circle, Sitamarhi.
3. The Assistant Commissioner of Commercial Taxes Sitamarhi Commercial Taxes Circle, Sitamarhi.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Mohit Agarwal, Advocate
Ms. Aishwarya Riti, Advocate
Mr. Atal Bihari Pandey, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-1
Mr. Pawan Kumar, AC to GA-1

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 04-04-2017

Even though by filing a counter affidavit respondents have stated that the petitioner's counsel appeared and took 10 days' time and thereafter did not respond to the notices and did not appear and, therefore, in proceeding *ex parte* the respondent assessing

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officer was justified, we are of the considered view that, in the interest of justice, one more opportunity should be granted to the petitioner to justify his claim.

That being so, without entering into the controversy on merit, considering the fact that the order of assessment in question is an ex-parte one and penalty on the tax amount has been levied without notice to the petitioner, it is thought proper, in the interest of justice, to remand the matter back to the Assessing Officer for passing the assessment order afresh. Accordingly, the impugned orders of assessment are quashed. This petition is disposed of with the following directions:

The petitioner shall appear before the Assessing Officer with a certified copy of this order on 20.04.2017 and file all his objection with the Assessing Officer with regard to the assessment in question and on the same being done, the Assessing Officer shall proceed to complete the assessment in accordance with law and complete the same within the period of 30 days thereto. In case, the petitioner does not appear on 20.04.2017 or fails to file his objection, the Assessing Officer would be free to proceed in the matter without granting any further time to the petitioner. In case, the petitioner is in requirement to any document or material for

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submitting his objection on 20.04.2017, he shall make an application in this regard before seven days i.e., on or before 11th April,2017 and the Assessing Officer shall take a decision on such request made by the petitioner within 03 days thereto.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.4.2017
Transmission Date	N/A

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