## IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.5583 of 2017**

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ESVEEGEE Breweries Pvt. Ltd., a Company incorporated under the Companies Act, 1956, having its registered Office at D 10 Okhala Phase-1 Industrial Estate New Delhi-110020 and works at Mahuli Road, Karmali Chack P.O. through its Authorized signatory Sujeet Kumar Son of Late Mahendra Lal, resident of Kothia Kurji More, P.O. +P.S. Patliputra, District-Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of Commercial Taxes Patna City West Circle, Patna City.

.... .... Respondent/s

with

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**Civil Writ Jurisdiction Case No. 5604 of 2017**

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ESVEEGEE Breweries Pvt. Ltd., a Company incorporated under the Companies Act, 1956, having its registered Office at D 10 Okhala Phase-1 Industrial Estate New Delhi-110020 and works at Mahuli Road, Karmali Chack P.O. through its Authorized signatory Sujeet Kumar Son of Late Mahendra Lal, resident of Kothia Kurji More, P.O. +P.S. Patliputra, District-Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of Commercial Taxes Patna City West Circle, Patna City . .... .... Respondent/s

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**Appearance :**

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

For the Respondent/s : Mr. Vikash Kumar, Advocate

Mr. Sriram Krishna, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

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

**Date: 18-04-2017**

Having heard learned counsel for the parties at length, we find much force in the objection raised by Sri Vikash Kumar, Standing Counsel No. XI to say that against the order impugned passed making assessment under Section 28 of the Bihar Value Added Tax Act, 2005 petitioner has a statutory remedy of appeal and, therefore, this writ petition directly before this Court is not maintainable. The grounds raised by the petitioner in these writ petitions are not such on the basis of which jurisdiction of this Court under Article 226 of the Constitution can be invoked when a statutory remedy of appeal is available to the petitioner.

2. However, the contention of the petitioner that even before time limit for filing of the appeal is not over coercive steps for attachment of his bank account has been undertaken warrants consideration. The authority should have at least waited and permitted the period for filing of the appeal to be over before taking the extreme step of attaching petitioner's bank account. To that effect for the present relief should be granted to the petitioner and, accordingly, it is directed that the bank account of the petitioner should be released. Petitioner should be granted opportunity to file an application for stay before the learned Appellate Authority and thereafter the respondents are free to take steps for recovery of the amount in accordance with law subject to orders that may be passed by the Appellate Authority. Action taken for attachment of the bank guarantee even before the time limit for filing of the appeal is not

over, in our view, cannot be appreciated and, therefore, we have no hesitation in directing that for the present the attachment order of the bank account should be and, is accordingly, quashed. The petitioner shall file an appeal before the appellate authority within a period of 15 days from the date of receipt of a copy of this order.

3. With the aforesaid, both the writ petitions are disposed of.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

P.K.P.

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