IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17463 of 2016

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B. K. S. Eit Udyog, a proprietory concern having its office at Village Chugri, P.O.- Jagdishpur, P.S.- Vijaypur, District- Gopalganj through its Proprietor, Brajesh Kumar Srivastava Son of Late Sudarshan Lal resident of Village Chugri, P.O.- Jagdishpur, P.S.- Vijaypur, District- Gopalganj.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikash Bhawan, Bailey Road, Patna.
2. Commercial Taxes Officer, Gopalganj Circle, Gopalganj.

... ... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. ANIL KUMAR SINHA-GA1

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

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

3 27-02-2018 Heard learned counsel for the petitioner as well as counsel representing the Revenue.

Submission is made on behalf of the counsel for the petitioner that no proper notice and opportunity of hearing was given by the Assessing Authority and now liability has been fixed with equal amount of penalty, which has caused serious prejudice to them. If an opportunity is given to them before the Assessing Authority, they will be able to establish their bona fide.

In the alternative, counsel for the Revenue submits that the plea of notice is only a ploy and besides the above, there is a statutory remedy of appeal available to the petitioner, where all questions of fact and law can be raised and the same will be considered by the Appellate Authority.

We are inclined to accept the submission of the counsel for the Revenue. We, however, permit the petitioner to file an appeal within a period of two weeks, where even a prayer for stay, may be made. The Appellate Authority would be duty bound to consider the prayer for stay, if there is going to be extraordinary delay in adjudication of the appeal. It will be in the interest of the Assessee as well as the Revenue Authorities to cooperate with the Appellate Authority for an early adjudication.

Till the order is passed on the petition for stay, the State Authorities may not enforce the assessment order passed against the petitioner.

The Writ Application stands disposed off with above liberty and observation.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

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