

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5695 of 2018

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M/s Tide Water Oil Co. (I) Ltd., through its General Manager, Soumitra Rudra, S/o- Sunil Kumar Rudra, aged 54 years, resident of 382, Jodhpur Park, Kolkatta, Jodhpur Park, West Bengal- 700068

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna
2. The Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna
3. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna
4. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Archana Shahi, Advocate
For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-03-2018

In the matter of payment of Entry Tax under the Bihar Value Added Tax Act imposing liability by the impugned Assessment Order Annexure-3 series dated 30th of January, 2018 the petitioner has filed this writ petition primarily on the ground



that an ex parte order has been passed without granting reasonable opportunity to the petitioner and without granting them liberty to produce all documents with regard to the issue in question.

By filing various documents and indicating payment of Entry Tax for the years in question through e-payment system vide bank reference number and challan numbers as are indicated in Annexure-2 it is tried to be indicated in the writ petition that all tax dues have been paid and certain amount now requires to be refunded.

The urgency in the matter is expressed by contending that the bank account of the petitioner has been attached and, therefore, this Court should interfere into the matter and ensure grant of opportunity to the petitioner before passing of the assessment order.

Sri Vikash Kumar refutes the aforesaid and argues that notices are sent by e-mail under the statutory provision. They are served on the petitioner and inspite of service as the petitioner did not appear, the ex parte order has been passed and in doing so, no error has been committed by the department. It is also informed to us that in this case the petitioner has deposited a sum of Rs. 25 lacs and the bank account has been released.



Taking note of the aforesaid averments made by the parties, for the present, we are of the considered view that as huge financial liability to the tune of more than one crore has been imposed upon the petitioner and the order in question seems to be and is apparently an ex parte order, interest of justice requires that at least one more opportunity should be granted to the petitioner to submit the documents and seek reconsideration of the matter even if the notices as stated by Sri Vikash Kumar was served.

Taking note of the aforesaid, we allow this petition and direct that on the petitioner appearing before the Assessing Officer along with certified copy of this order and filing all relevant documents with regard to the issue in question on 9th of April, 2018, the authority shall proceed to pass fresh assessment order in accordance with law. Needless to emphasize that in case the petitioner does not appear and produce documents on 9th of April, 2018, the Assessing Officer would be free to proceed in accordance with law. Till the assessment proceedings afresh is not concluded, as directed hereinabove, all coercive action shall remain in abeyance. In case after examining the documents and the materials produced by the petitioner any amended order or fresh orders are required to be passed, the Assessing Officer



shall pass fresh orders, hence, it shall be incumbent upon the Assessing Officer to give reasons for not accepting the contentions of the petitioner and the evidence produced.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	03.04.2018
Transmission Date	

