IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18641 of 2017

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1. M/s Indu Enterprises, through its Proprietor, Manoj Kumar Singh, S/o Late Balmiki Prasad, aged 55 years, Resident of Anandpuri, Bibiganj, P.S.- Muzaffarpur Sadar, District-Muzaffarpur.
2. Indu Kumari Devi @ Indu Devi, W/o Manoj Kumar Singh, Resident of Anandpuri, Bibiganj, P.S.- , District-Muzaffarpur.

... ... 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, West Circle, Muzaffarpur.
4. The Commercial Taxes Officer, West Circle, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Archana Sinha, Advocate
Mr. Alok Kumar @ Alok Kumar Shahi, Advocate

For the Respondent/s : Mr. Vikash Kumar -SC11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-01-2018

Having heard learned counsel for the parties, we find that the order of assessment in question is an *ex parte* order. Even though the respondents have filed certain notices indicating service of notice on the petitioners but considering the fact that the notice said to have been served on the petitioners on a particular day and thereafter the Tamila report is also prepared by the office on the same day, learned counsel submits that proper opportunity was not granted. That apart learned counsel has brought on record tax invoice receipt showing the transactions for which tax has already been paid.

Taking note of all these circumstances, we are of the considered view that interest of justice would be met in case petitioners are granted one more opportunity to appear before the Assessing Officer and submit all the documents and the Assessing Officer shall reconsider the issue on such submission of documents being filed.

Accordingly, we allow this writ petition, quash the order of assessment dated 18.11.2016 (Annexure-2 series) and direct that the petitioners shall appear before the Assessing Officer along with the certified copy of this order and file all relevant documents before the Assessing Officer on 5th of February, 2018 and on the same being done, the Assessing Officer shall proceed with the matter in accordance with law and pass a fresh order of assessment. Till the fresh assessment is not completed, all coercive steps including attachment of the bank account of the petitioners shall be kept in abeyance.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	25.01.2018
Transmission Date	