IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4071 of 2016

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C & C Constructions Ltd., a Company incorporated under the Companies Act, 1956, having its office at village Pather Inglish P.O. Orhanpur, P.S. Muffasail, District- Nawadah through its Senior General Manager (Finance) Shri. Shailendra Kumar Son of Shri. Hari Shankar Prasad, resident of Flat No. 404, Dukhanram Plaza, Exhibition Road, P.O. GPO, P.S. Gandhi Maidan, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of Commercial Taxes (In-Charge), District- Nawadah.

... ... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. LALIT KISHORE- PAAG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-03-2018

Keeping in view the facts and circumstances of the case, we find that the petitioner has challenged the order of assessment with regard to the Entry Tax imposed upon the petitioner on various grounds including the principles laid down by the Patna High Court in C.W.J.C. No. 7623 of 2015 (Shell India Markets Pvt. Ltd. Vs. State of Bihar & Anr.) decided on 31.07.2015.

We are consistently of the view that when a statutory remedy of appeal is available, all questions raised with regard to liability to pay Entry Tax should be raised before the statutory appellate authority and a writ petition directly before this Court bypassing the statutory remedies are not permissible.

Keeping in view the aforesaid, we direct the petitioner to file an appeal before the competent Statutory Authority within a period of 45 days from today and if the same is done, the appellate authority shall proceed to decide the appeal in accordance with law and shall not reject it on the ground of delay. In the meanwhile, the petitioner is also granted liberty to file application for stay of the recovery of duty and till a decision is not taken on the stay application, coercive action for recovery from the petitioner shall be kept in abeyance.

With the aforesaid, the writ petition stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	22.03.2018
Transmission Date	