IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5697 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	:	Mr. Archana Sinha @ Archana Shahi, Advocate Mr. Alok Kumar 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

Challenging the ex parte assessment order dated 30.01.2018 and demand notice dated 01.02.2018 (Annexure-3 series) passed against the petitioner by the Assessing Officer in the matter of payment of Value Added Tax under the Bihar Value Added Tax Act, this application has been filed.

By filing various documents and indicating payment of Value Added Tax for the years in question through e-payment system vide bank reference number and challan numbers it is tried to be indicated in the writ petition that all tax dues have been paid and the 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, the Writ 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.

Taking note of the aforesaid averments made by the parties, for the present, we are of the considered view that as huge financial liability 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, filing all relevant documents with regard to the issue in question and depositing a sum of Rs. 10 lacs 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, produce documents and deposits a sum of Rs. 10 lacs 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	