IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11985 of 2017

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M/s. Bunty Ent Udyog, Village- Bindwalia, P.O.-Bindwalia- 841501 and District Gopalganj through its Proprietor Munni Prkash Mishra, S/o Sri Chandrasekhar Mishra, Resident of Village-Vinod Matihaniya, P.O.-Baliwan Sagar and P.S.-Bishambhar Pur and District Gopalganj.

... ... Petitioner/s

Versus

1. The State of Bihar Through The Commissioner-Cum-Principal Secretary, Commercial Taxes Department, Bihar having its Office at Vikash Bhawan, Bailey Road, Patna.
2. The Commercial Taxes Officer, Gopalganj Circle, Gopalganj, District-Gopalganj.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Agrawal, Advocate
For the Respondent/s	:	Mr. Vikash Kumar-SC-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 : 13-07-2018

Challenging the order of assessment (Annexure-3) dated 15th of September, 2015 imposing Entry Tax and penalty for the period 2012-13 and contending that initiation of proceedings under Section 8 of the Entry Tax Act read with Section 28(1) of the Bihar Value Added Tax Act, 2005 by show-cause notice (Annexure-2) dated 17.04.2015 is beyond the period of two years, for which the assessment could be reopened, as contemplated under Section 28(1), this writ petition has been filed.

Our attention is invited to orders passed recently by this Court on 25.06.2018 in C.W.J.C. No. 16290 of 2017 and an earlier judgment of this Court in the case of **Ranjan Bricks Center & Ors. Vs. The State of Bihar- 2016 (2) PLJR 310** wherein after taking note of the first proviso to Section 28 (1) of the Act, it has been held that no proceeding for assessment shall be initiated after expiry of two years from the period for which tax is to be recovered. In this case, admittedly the period for initiating the proceedings lapsed on 01.04.2015 and as the assessment is initiated after the period of two years on 17.04.2015 the same is unsustainable, impermissible under law and as it is beyond the statutory period prescribed, we have no hesitation in quashing the proceedings and the show-cause notice and the consequential action of assessment, Annxure-3.

Accordingly, the application is allowed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	19.07.2018
Transmission Date	