IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15434 of 2016

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Ultratech Cement Limited son of late M. Suryachandra Rao, registered business premises situated at Village and Post- Shahjahanpur, P.S.- Shahjahanpur Near- Daniyama Tehsil- Fatuha, District Patna- Pin- 801305.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. Deputy Commissioner of Commercial Taxes, Integrated Check Post, Rajauli.
3. Commercial Taxes Officer, Integrated Check Post, Rajauli.

... ... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-08-2019

None appears on behalf of the petitioner.

Mr. Vikash Kumar, learned SC 11 appears for the State to raise a preliminary objection as to the maintainability of the writ petition. He submits that the order date 14.08.2016 was passed by the respondent Commercial Taxes Officer, Rajauli Integrated Check Post, Rajauli, whereby the truck bearing registration no. JH12F8954 was seized for alleged violation of section 60 of the Bihar Value Added Tax, 2005 (hereinafter referred to as 'the VAT Act'). He further submits that the petitioner has rushed this court without availing of the alternative remedy available to him under the' VAT' Act

Mr. Vikash Kumar, learned SC 11 makes reference to the opinion expressed by the Division Bench of this Court in the case of Supreme Road Transport Private Ltd., vs. State of Bihar, reported in 2015(1) PLJR 995, paragraph 20 to submit that there is alternative remedy available to the petitioner under section 72 of the 'VAT' Act.

The pleadings on record, confirm that while the petitioner claimed the consignment loaded on the truck as iron & steel for using in Plant & Machinery, to invite tax at the rate of 5 % but according to the department, the goods loaded came in the category of 'painted gratings' which invited tax at the rate of 14.5 % under the guidelines. It is holding thus that the order impugned (Annexure 1 to the writ petition) has been passed.

Mr. Vikash Kumar, learned SC 11 informs that the VAT Act has now been repealed by Goods and Services Tax (GST) Act, 2017 but the right to appeal has been saved under section 147 of the GST Act and thus the petitioner is at liberty to take recourse to such appellate remedy.

Having considered the submissions advanced and since no one appears for the petitioner to press this writ petition, we dispose off the same with the liberty to the petitioner to avail of the appellate remedy available under section 72 of the 'VAT' Act to question the impugned order and since the limitation period must have expired in the meanwhile, we grant four weeks time to the petitioner to take recourse to such remedy. It goes without saying that the petitioner should prefer such appeal within four weeks next accompanied with a petition for condonation of delay, the Appellate Authority shall consider and dispose of the same on its own merits in accordance with law bearing in mind the pendency of the matter before the High Court.

The writ petition is disposed of with directions/observations above.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	