IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5542 of 2017

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Hind Eatt Udyog, a Proprietorship Firm having its office at village-Karigaon, P.O.- Bahadurpur, P.S.-Rajauli, District-Nawada, through its Proprietor Bhupendra Roy, S/o Dinanath Roy, resident of Village- Karigaon, P.O.- Bahadurpur, P.S.- Rajauli, District- Nawada, Bihar.

... ... Petitioner

Versus

1. The State of Bihar, through the Commissioner of Commercial Taxes, Department of Commercial Taxes, Government of Bihar, Patna.
2. The Commissioner of Commercial Taxes, Department of Commercial Taxes, Government of Bihar, Patna.
3. The Assistant Commissioner of Commercial Taxes, Nawada Circle, District- Nawada.
4. The Commercial Tax Officer, Nawada Circle, District- Nawada.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Raj Kishore Prasad, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-12-2020

Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for the following reliefs:-

> i) To issue an appropriate writ/order/direction in the nature of a writ of certiorari for quashing the order dated 16.02.2016 passed by the respondent Commercial Taxes Officer as also the consequential Demand Notice issued vide Notice No. 3118 dated 16.02.2016 (as contained in Annexure- 3 & 4 respectively), which is an

ex-parte order of assessment passed under the provisions of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (hereinafter referred to as the 'Entry Tax Act') read with Section 28(1) of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as the 'VAT Act') imposing Entry Tax of Rs. 75,000/- and Penalty of Rs. 75,000/- for the assessment year 2013-14.

ii) To issue an appropriate writ/order/direction in the nature of a writ of mandamus directing the respondent authorities not to take any coercive steps against the petitioner for realization of the amount of tax demanded by the aforesaid Demand Notice dated 16.02.2016, as the petitioner has not been granted any opportunity of hearing before passing the impugned order imposing entry tax and penalty for the assessment year 2013-14.

iii) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case."

Before us, it is not disputed that the present case is squarely covered by an order dated 25.01.2016 rendered by a coordinate Bench of this Court in **CWJC No. 17285 of 2015 titled as India Int Udyog Vs. the State of Bihar and Ors**.

For the reasons that the petitioner was not afforded adequate opportunity of hearing prior to passing of the impugned order dated 25.01.2016, as such, with the consent of the parties, the impugned order dated 25.01.2016 is set aside with the matter being remanded to the Assessing Authority for deciding afresh in accordance with law. The petitioner's counsel undertakes to fully cooperate; not take any unnecessary adjournment and also request to decide the matter expeditiously.

In any event, we direct that the petitioner shall appear before the appropriate authority on 11.02.2021 and pray for a copy of the impugned order. Since the matter pertains to the year, 2013, we direct the authority to consider and decide the matter expeditiously and positively on or before 11.02.2021.

The writ petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	