IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23798 of 2018

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Bhawani Automobiles, a partnership firm having its office at Khabra Road, NH 28 Muzaffarpur through its partner Manjay Kumar, Son of Shri Hardeo Choudhary, resident of Kanhauli, Vishnu Dutt P.O. Muzaffarpur, P.S. Mithanpura, District- Muzaffarpur.

... ... Petitioner/s

Versus

1. The State Of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna
2. Joint commissioner of Commercial Taxes, Administration, Tirhut Division, Muzaffarpur.
3. The Asst. Commissioner of commercial Taxes,West Circle,Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V. Pathy, Advocate

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

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2020

Petitioner has prayed for the following relief(s):

> "i) the order dated 16.12.2017 (as contained in Annexure-3 series) passed by the respondent no.2 for the period 2014-15 under section 8 of the Entry Tax Act read with section 33 of the Bihar Value Added Tax Act, 2005 be quashed.
>
> ii) the order dated 06.04.2018 (as contained in Annexure-3 series) passed by the respondent no.2 for the period 2014-15 under section 8 of the Entry Tax

Act read with section 73A of the Bihar Value Added Tax Act, 2005 be quashed.
iii) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

The challenge to the impugned order dated 16.12.2017 is on two grounds – (a) the order being cryptic in nature; also does not assign any reason for the adjudication of the amount of tax payable by the petitioner and (b) there is non-consideration of the decision rendered by this Court including in C.W.J.C. No. 7623 of 2015, titled as Shell India Markets Pvt. Ltd. Vs. The State of Bihar.

On both counts, we are in agreement with the petitioner that the impugned order needs to be quashed.

Ordered accordingly, with the following directions-

(a) The petitioner shall appear before the Assessing Authority on 27.12.2020, when fresh date would be fixed, enabling the parties to place additional materials, if so required and desired, including the copies of the judgments they seek to rely upon;

(b) Within four weeks thereafter, the Assessing Officer shall pass an order assigning reasons, copy whereof shall be supplied to the parties, leaving it open to them to further take recourse to such remedies as would be otherwise available in accordance with law.

The parties undertake to fully cooperate and not to take unnecessary adjournments.

Mr. Vikash Kumar, learned SC11 states that the case of the petitioner would be covered not in terms of the decision rendered by this Court in Shell India Marketing Pvt. Ltd. (supra) but the decision rendered in C.W.J.C. No. 1271 of 2014, titled as M/s. Premier Irrigation Adriteck Private Limited. Vs. The State of Bihar & Ors., reported in 2014 (3) PLJR 81.

All these facts would be considered by the appropriate authority.

This writ application stands disposed of accordingly.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.12.2020
Transmission Date	