IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.297 of 2019

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Thakur Traders, Purandaha, Rajwara, Sonbarsa, Sitamarhi Through its Proprietor Sunil Kumar S/O Satyanarayan Thakur Resident of Mohalla: Krishna Nagar, Ward no.4, Road No.03 P.S. Dumra (Sitamarhi), District Sitamarhi, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary -Cum-Commissioner of Commercial Taxes, Bihar Patna having it's office at Vikas Bhawan, Patna.
2. The Deputy Commissioner of Commercial Taxes Sitamarhi Circle, Sitamarhi.
3. The Assistant Commissioner of Commercial Taxes Sitamarhi Circle, Sitamarhi.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Niraj Kumar, Advocate
For the Respondent/s	:	Mr.Vikash Kumar- SC-11

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

Date : 10-12-2020

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

2. The present writ application has been filed under Article 226 of the Constitution of India, in which, the petitioner has prayed for following relief:

> "For issuance of a writ in the nature of *certiorari* for quashing of the *Ex-parte* order dated 05.02.2018 passed by the Respondent no.3/Assistant Commissioner of Commercial Taxes, Sitamarhi and also for quashing of the

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> consequent demand notice dated 05.02.2018 issued by the said Respondent (Annexure – 1 to the writ application) and remand the matter back to the Assessing Officer for passing the assessment order in accordance with law after hearing of the petitioner."

3. It is submitted on behalf of the petitioner that impugned order of assessment dated 5.2.2018 and consequent demand notice are unsustainable in the eye of law on the ground that same is non-speaking as well as *ex-parte*. Writ petitioner was not given any opportunity to place his case.

4. After hearing learned counsel for the petitioner and considering the relief sought for in the writ application, the impugned order dated 05.02.2018 passed by the Respondent no.3/Assistant Commissioner of Commercial Taxes, Sitamarhi as well as consequent demand notice dated 05.02.2018 are hereby quashed and the matter is remanded back to the authority concerned to consider the matter afresh after giving an opportunity of hearing to the petitioner and petitioner is directed to appear before the Respondent no. 3 within a period of four weeks from today by way of filing representation alongwith the copy of this order. The concerned respondent i.e. Respondent no. 3, without being prejudiced with this order, will the examine the same on its own merit and pass a reasoned

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order on or before 28th of February, 2021. It is expected that the petitioner would fully cooperate with the respondents.

5. With above observation and direction, the writ application stands disposed of.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

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Uploading Date	15.12.2020
Transmission Date	

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