

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19149 of 2017

Pinax Steel Industries Pvt. Ltd. company incorporated under the Companies Act, 1956 having its Works at Deokuli, PO+PS Musepur, PS Bihata, District Patna, through its authorized signatory Kumar Mangalam, Son of Shri Sanjay Kumar Khemka, Resident of 3B Savita Apartment, Near Alpana Market, P.O.- Patliputra, P.S.- S.K. Puri, District- Patna.

... .. Petitioner/s

Versus

1. Commissioner Of Commercial Taxes, Bihar, Patna, having its office at Vikas Bhawan, Bailey Road, Patna.
2. Dy. Commissioner of Commercial Taxes, Danapur Circle, Danapur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.V. Pathy, Advocate, Mr. Sadashiv Tiwari, Advocate, Mrs. Manju Jha, Advocate
For the Respondent/s	:	Mr. Lalit Kishore -A.G.

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

6 05-03-2020 Petitioner has prayed for the following relief:-

"(i) the order dated 10.03.2017 (as contained in Annexure-2 series) passed by the respondent no. 2 for the period 2011-12 under Section 31 of the Bihar Value Added Tax Act, 2005 be quashed."

Prior to the passing of the impugned order dated 10.03.2017, the authority has not issued statutory notice to the writ petitioner.

Learned counsel for the respondents relies on paragraph no.11 of the counter affidavit, which reads as under:-

"11. That in reply to the averments contained in paragraph no.8 and 9 of the writ application it is submitted that the petitioner was given multiple opportunities of hearing and he availed himself of these



opportunities. Separate notice of hearing under section 31 of Bihar VAT Act was not given because many irregularities transpired during hearing under section 25 of the Act. When the petitioner has availed himself of multiple opportunities of hearing, it becomes immaterial whether a separate notice under section 31 was served on him or not. Such a notice was a mere technicality and did not materially affect the outcome."

We notice that in the impugned order dated 10.03.2017, liability of more than sixteen lacs has been fastened upon the petitioner under different heads, as such, the action is in violation of principles of natural justice, and on this ground alone, since it entails penal consequences, impugned order dated 10.03.2017, is set aside and the matter remanded back to the authority for reconsideration. Statutes mandates issuance of notice for commencement of proceeding under the Act. In any event, on facts, petitioner was not made known of initiation of proceedings under the said provision.

The petitioner undertakes to appear before the competent authority on 10.04.2020 and to fully co-operate and not take any unnecessary adjournment.

We hope and believe that if the petitioner appears before the competent authority, and files his representation, the same shall be dealt with in accordance with law, expeditiously and positively within a period of three months from the date of receipt thereof.



The petition is accordingly, disposed of reserving liberty
aforesaid.

(Sanjay Karol, CJ)

(S. Kumar, J)

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