IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19562 of 2018

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M/s Satyam Computers, Munger, Gandhi Chowk, Kripa Rampur Munger through its Proprietor namely Kumar Niraj, Son of Kailash Prasad Bhagat, Resident of Kripa Rampur, Gandhi Chowk, P.S.- Kotwali, Distt.- Munger.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikash Bhawan, Patna.
2. The Commissioner of Commercial Taxes, Bihar Patna having its office at Vikash Bhawan, Patna.
3. The Joint Commissioner, of Commercial Taxes, Audit Bhagalpur Division, Bhagalpur.
4. The Assistant Commissioner of Commercial Taxes, Circle Munger.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jyoti Ranjan Jha, 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 : 17-12-2020

Petitioner has prayed for the following relief(s):-

> "I. For commanding and directing the respondents to Set Aside the Assessment/Reassessment for the period 2012-13 under the provisions of Section 31 of the Bihar Value Added Tax Act, 2005, passed by Assistant Commissioner of Commercial Taxes Circle, Munger.
>
> II. For Setting Aside the notice of demand passed

on 17.3.2018 and issued bearing number 287 dated 29.8.2018 demand of Rs. 5,49,827.12 (Five Lakhs forty Nine Thousand Eight Hundred 27 and 12 Paise) issued by Assistant Commissioner of Commercial Taxes Circle, Munger under Section 25 and 39 of the Bihar Value Added Tax 2005.

III. For any other relief(s) for which petitioner is found entitled in the eye of law."

Undisputedly, prior to the passing of the impugned order (Annexure 4 to the writ petition) passed by the Assistant Commissioner of Commercial Taxes and consequential demand notice dated 17.03.2018 (Annexure 5 to the writ petition), no opportunity of hearing was ever afforded to the petitioner nor was he ever noticed. The impugned order entails civil consequences.

As such, on this short ground alone, the impugned order (Annexure 4 to the writ petition) passed by the Assistant Commissioner of Commercial Taxes and consequential demand notice dated 17.03.2018 (Annexure 5 to the writ petition), is quashed and set aside with the matter being remanded to the authority concerned.

Mr. Vikash Kumar, learned Standing Counsel No. 11, states that the authority concerned shall consider and dispose of the matter on or before 31.03.2021 and the petitioner be directed to appear before the concerned authority on 05.01.2021 along with a copy of this order.

Ordered accordingly.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner appears before the concerned authority, the matter shall be dealt with, in accordance with law and with reasonable dispatch.

Needless to add, while considering matter, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.12.2020
Transmission Date	