IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16478 of 2019

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M/s Life Line Rice Mill having its Office at Shashi Palace, Ramkrishan Nagar, Hemra Road, Ward No.20, District-Begusarai through its Proprietor Pawan Kumar, aged about 47 Years (Male), Son of Sri Rameshwar Prasad Singh, resident of Sihma, Police Station-Matihani, District-Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner of Commercial Taxes, Bihar, Patna.
2. The Deputy Commissioner of Commercial Taxes, Begusarai Circle, Begusarai.
3. The Assistant Commissioner of Commercial Taxes, Begusarai Circle, Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Shahi, Advocate
Mr. Alok Kumar @ Alok Kr Shahi, Advocate

For the Respondent/s : Mr. Vikash Kumar (SC11)
Mr. Sriram Krishna, Advocate
AC to SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 13-01-2020 Petitioner has prayed for the following relief(s):-

i) For issuance of a writ in the nature of certiorari quashing the order dated 15.06.2018 passed by the Assistant Commissioner, Commercial Taxes, Begusarai, Circle, Begusarai in exercise of power conferred under Section 31 of the Bihar Value Added Tax Act, 2005 (for brevity "VAT Act") whereby the respondent no.3 determined the taxable liability of the petitioner to an amount of Rs.1,58,266.00 for the period of 2011-12 and an amount of Rs.4,74,798.00 as penalty.

(ii) For issuance of a writ in the nature of certiorari quashing the notice of demand, dated 21.06.2018, issued vide process no.247 in exercise of power conferred under Section 25 read with Section 39 of the VAT Act whereby the petitioner has been directed to pay an amount Rs. 6,33,064.00.

(iii) For issuance of writ in the nature of mandamus restraining the respondents from taking any coercive action, i.e. special mode of recovery under Section 47 of the VAT Act and/or for any other relief(s) for which the petitioner may be found entitled to in the facts and circumstances of the present case."

The basis of the challenge of the order is non-consideration of the material and not inherent lack of jurisdiction. As such, in our considered view, learned counsel for the petitioner is not right in contending that petitioner cannot resort to an alternative remedy as provided in accordance with the Bihar Value Added Tax Act, 2005 and the Rules framed thereunder.

As such, we dispose of the present writ petition reserving liberty to the petitioner to take recourse to such remedies as are otherwise available in law.

In the event, petitioner resorts to remedies under the Act on or before 13th of February, 2020, the learned counsel for the respondents states that the issue of limitation shall not be raised.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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