IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19223 of 2017

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Bishnu Kant Jha S/o- Late Rajbanshi Jha, Prop- Raj Bricks Centre, Resident of Mohalla- Laxmi Shagar, Road No. 7, P.S.- LNMU, P.O.- Laxmi Sagar, District- Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner cum Secretary of Commercial Tax, Vikash Bhavan, Baily Road, Patna
2. The Joint Commissioner of Commercial Tax, Administration Darbhanga, Division- Darbhanga.
3. The Deputy Commissioner of Commercial Tax Darbhanga, Circle Darbhanga.
4. The Assistant Commissioner of Commercial Tax Darbhanga, Circle Darbhanga.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Krishna Mohan Mishra
For the Respondent/s	:	Mr.Pushkar Narain Shahi-Aag6
	:	Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 03-02-2020

Petitioner has prayed for the following reliefs :-

(i) To issue writ of certiorari or any other writ to quash the order passed by respondent Assistant Commissioner of Commercial Tax, Darbhanga by order dated 10.06.2015 as well notice of demand dated 13.06.2015 which served to the assessee on 06.10.2017.

(ii) To hold and declare that the proceeding initiated under Section 28 of the Value Added Tax Act, 2005 and order passed therein is barred by limitation because the proceeding has been initiated after two years from the last date of the financial year 2012-13 which is impermissible under the Act.

(iii) To further hold and declare that the respondent assessing officer has no reason to believe that the petitioner was liable to pay tax under the Act but had wilfully fails to apply for grant of certificate of registration or failed to furnish information as prescribed under Section 19.

(iv) To hold and declare that the order passed by the respondent is illegal and without authority of law as no notice or show cause has been issued nor opportunity of hearing has been provided to the petitioner therefore the order is bad and without jurisdiction."

Before us, it could not be disputed that the averments made in paragraph no. 2 of the impugned order dated 10.06.2015, passed by the respondent Assistant Commissioner of Commercial Tax, Darbhanga, that adequate opportunity of hearing could not be afforded to the petitioner. In terms of the impugned order, liability stands fastened upon the writ petitioner, as such, order being penal in nature, is quashed only on the ground of violation of principles of natural justice i.e. non service of notice and affording adequate opportunity of hearing, prior to its passing.

The petitioner is directed to appear before the appropriate authority i.e. Deputy Commissioner, Commercial Tax, Darbhanga, at present Joint Commissioner, State Taxes, Darbhanga on 02.03.2020 at 10:30 a.m. and apprise the authority of passing of the instant order by placing a copy of the same on record.

Since the proceeding pertains to the year 2012-13, the matter shall be decided on merits within a period of three months from today. The petitioner undertakes not to take any unnecessary adjournments.

The instant petition stands disposed of in the aforesaid mutually agreed terms.

(Sanjay Karol, CJ)

(Mohit Kumar Shah, J)

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