IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1403 of 2011

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M/S VANKOS & COMPANY, Industiral Estate, Patna, through its Deputy Manager Shri S.K.Srivastava, S/O Late Basudeo Prasad Resident Of Gola Road, P.O. And P.S. Danapur, Dist Patna

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner Of Commercial Taxes, Bihar, Patna
3. The Deputy Commissioner Of Commercial Taxes, Central Circle,Patna
4. Joint Commissioner Of Commercial Taxes, Collectrate, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s : M/s Ajay Kumar Rastogi, Sr. Advocate
Parijat Saurav,
Rohitabh Das, Advocates

For the Respondent/s : Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-09-2023

1. The petitioner is aggrieved with the notice issued at Annexure-1 dated 29.9.2010, wherein he has been asked to submit the details of the tax paid, from 1993-94 onwards till 2004-05.

2. We are not shown any such procedure by which the Tax Authority can demand evidence of payment after so many years. The reliance placed is on Rule 26 of the Bihar Sales Tax Rules, 1983, which mandates the payment of tax and penalty into the Government treasury by Chalan in Form No.

XVII. This does not require maintenance of such Chalan for more than 20 years.

3. It has to be noticed that when tax is due, the Statute provides for expeditious recovery of the same from the assessee for which the Tax Officers have been clothed with enough authority. There are also coercive measures, even of revenue recovery, which is available to the tax authorities to proceed for recovery of dues against the assessees.

4. In the present case, the tax authority seems to be not sure as to whether the payments were made or any recoveries were done. In an attempt to recover the amounts, the tax authority has issued Annexure-1 notice without any statutory backing or power to issue such notice, after a period ranging between five to twenty years.

5. We also have to notice the certificate issued to the assessee as is available as part of Annexure – 4 at page 24, which indicates that the assessee has no dues as on 30.10.2003. The Certificate has also been issued on 19.11.2003 for the purposes of applying for a tender. Whatever the purpose be, the tax authority has verified the records and issued the certificate and we cannot presume otherwise.

6. In the above circumstances, we find

absolutely no reason to uphold the notice issued under Annexure – 1, which does not have any statutory backing.

7. The writ petition would stand allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Spd/-Shiv

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