IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8469 of 2017

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1. Eltech Appliances Pvt. Ltd. and Anr son of Shri G.B. Prasad, resident of C/o Miscellaneous Stores, Ashok Raj Path, Golghar, P.O. G.P.O. P.S. Gandhi Maidan, Patna- 800001.
2. ETA General Pvt. Ltd., a company incorporated under the Companies Act, 1956 having its registered o son of Shri G.B. Prasad, resident of C/o Miscellaneous Stores, Ashok Raj Path, Golghar, P.O. G.P.O. P.S. Gandhi Maidan, Patna- 800001.

... ... Petitioner/s

Versus

1. The State Of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its Vikas Bhawan, Patna.
2. Assistant Commissioner of Commercial Taxes, Integrated Check Post, Karmnasha, Kaimur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate Mr. Sadashiv Tiwari, Advocate Mr. Hitesh Karan, Advocate
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 : 06-09-2023

The issue raised in the writ petition was two fold: (i) the release of a vehicle detained; and (ii) the order of penalty imposed. Admittedly, there was a penalty of Rs.8,58,706/- by Annexure-7 order. The petitioner challenged the penalty order in the writ petition though there was an appellate remedy. At the time of admission, on 21.06.2017, a Division Bench of this Court passed the following order:-

"In the meanwhile, the vehicle in

question bearing No.GJ05BX-2623 shall be released along with the goods laden thereon, to the petitioner on his submitting an adequate security to the satisfaction of the Taxing Authority (Respondent No.2) and further undertaking to produce the vehicle and the goods or the value of the goods i.e. Rs.8,95,860/- as and when required by the Taxing Officer.”

2. The vehicle is now released and the penalty order has to be challenged in an appeal. If an appeal is filed within a period of one month from the date of receipt of a certified copy of this order and the adequate security furnished to the Taxing Authority based on the above interim order is still alive, then there shall be no further recovery till the appeal is disposed of. However, if security has not been furnished or the appeal is not filed, the Department would be entitled to proceed for recovery.

3. Writ petition is disposed of making it clear that we have not considered the penalty order on merits.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	08.09.2023
Transmission Date	