(2020) 12 PAT CK 0324

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5542 Of 2017

Hind Eatt Udyog APPELLANT

Vs

State Of Bihar And Ors RESPONDENT

Date of Decision : 09-12-2020

Acts Referred:
Bihar Value Added Tax Act, 2005 — Section 28(1)

Citation : (2020) 12 PAT CK 0324

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Raj Kishore Prasad, Vikash Kumar

Final Decision : Disposed Of

Judgement

Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for the following reliefs:-

i) To issue an appropriate writ/order/direction in the nature of a writ of certiorari for quashing the order dated 16.02.2016 passed by the respondent

Commercial Taxes Officer as also the consequential Demand Notice issued vide Notice No. 3118 dated 16.02.2016 (as contained in Annexure- 3 & 4

respectively), which is an ex-parte order of assessment passed under the provisions of the Bihar Tax on Entry of Goods into Local Areas for

Consumption, Use or Sale Therein Act, 1993 (hereinafter referred to as the â??Entry Tax Actâ??) read with Section 28(1) of the Bihar Value Added

Tax Act, 2005 (hereinafter referred to as the â??VAT Actâ??) imposing Entry Tax of Rs. 75,000/- and Penalty of Rs. 75,000/- for the assessment

year 2013-14.

ii) To issue an appropriate writ/order/direction in the nature of a writ of mandamus directing the respondent authorities not to take any coercive steps

against the petitioner for realization of the amount of tax demanded by the aforesaid Demand Notice dated 16.02.2016, as the petitioner has not been

granted any opportunity of hearing before passing the impugned order imposing entry tax and penalty for the assessment year 2013-14.

iii) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.â??

Before us, it is not disputed that the present case is squarely covered by an order dated 25.01.2016 rendered by a coordinate Bench of this Court in

CWJC No. 17285 of 2015 titled as India Int Udyog Vs. the State of Bihar and Ors.

For the reasons that the petitioner was not afforded adequate opportunity of hearing prior to passing of the impugned order dated 25.01.2016, as such,

with the consent of the parties, the impugned order dated 25.01.2016 is set aside with the matter being remanded to the Assessing Authority for

deciding afresh in accordance with law. The petitionerâ??s counsel undertakes to fully cooperate; not take any unnecessary adjournment and also

request to decide the matter expeditiously.

In any event, we direct that the petitioner shall appear before the appropriate authority on 11.02.2021 and pray for a copy of the impugned order.

Since the matter pertains to the year, 2013, we direct the authority to consider and decide the matter expeditiously and positively on or before

11.02.2021.

The writ petition stands disposed of in the aforesaid terms.

