(2008) 06 PAT CK 0048

In the Patna High Court

Case No : CWJC No. 16255 of 2007

M/s Maharani Enterprises, Patna — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 30-06-2008

Acts Referred:
Bihar Finance Act, 2007 — Section 17

Citation : (2008) 4 PLJR 466

Hon'ble Judges : R.M. Lodha, C.J;Kishore K. Mandal, J

Bench : Division Bench

Advocate : L.N. Rastogi, S.K. Sharan and Kalpana Rastogi, for the Appellant; Lalit Kishore, for the Respondent

Judgement

1. The Additional Advocate General-III appearing on behalf of the State is agreeable that it would be open to the petitioner to assail the legality and validity of the initiation of proceedings u/s 17 of the Bihar Sales Tax Act on the ground that the notice dated 20.5.2003 being not in conformity with Form XIV, as required under Rule 20 of the Bihar Sales Tax Rules, 1983, did not clothe the authority to frame re-assessment order u/s 19 of the Bihar Finance Act. He, however, submits that liberty should be granted to the respondents to raise a plea in defence that, in fact, the proceedings against the assessee have been initiated u/s 20 of the Bihar Finance Act before the assessment was made. In view of the submission of the Additional Advocate General, we are satisfied that merits of the diverse contentions need not be examined by us in the writ petition as the petitioner shall have full opportunity to argue before the appellate authority about the jurisdiction of the Assessing Officer for want of the notice being in conformity with Form XIV of the Bihar Sales Tax Rules. Obviously, the authorities shall consider this aspect after hearing both the parties in accordance with law.

2. This writ petition is disposed of accordingly.

