(2008) 02 PAT CK 0043

In the Patna High Court

Case No : CWJC No. 1205 of 2008

M/s Sri S. Deo Filing Station — APPELLANT

Vs

The State of Bihar and Another — RESPONDENT

Date of Decision : 25-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 712

Hon'ble Judges : J.N. Singh, J;Chandramauli Kr. Prasad, J

Bench : Division Bench

Advocate : Sandeep Kumar, for the Appellant; K.M. Prasad, for the Respondent

Final Decision : Allowed

Judgement

1. The prayer of the petitioner in this application is for issuance of a writ in the nature of certiorari for quashing assessment order dated 28.3.2006 passed by the Assistant Commissioner of Commercial Taxes. In view of the order which we propose to pass in this application, it is inexpedient to give in detail the facts of the case.

2. Suffice it to say that the petitioner is a Dealer of Petroleum products and the impugned assessment order was passed against him ex parte. It is its assertion that the aforesaid assessment order has been passed without service of valid notice.

3. In the counter affidavit attempt has been made to demonstrate that in fact notice was validly served on the petitioner.

4. Taking into account the facts and circumstances of the case and the materials on record, we are satisfied that service of notice was not valid and hence the Assistant Commissioner was in error in proceeding with the matter and passing an ex parte order.

5. In order to facilitate early disposal of the matter petitioner is directed to appear before the Assistant Commissioner, Commercial Taxes, Aurangabad Circle

with a copy of this order within four weeks from today and on its so appearing, the Assistant Commissioner shall pass final order within two months from the date of the petitioner''s first appearance. It shall be at liberty to place on record documents and raise such other pleas which are permissible in law. Needless to state that the Assistant Commissioner while passing fresh order shall consider the same.

6. We make it clear that we have not expressed any opinion in regard to merit of the claims of the parties. In the result, the application is allowed. Order of the assessment of the Assistant Commissioner dated 28.3.2006 is set aside with the directions aforesaid.