(1995) 06 PAT CK 0022

In the Patna High Court

Case No : C.W.J.C. No. 3793 of 1995

Take Home APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 30-06-1995

Acts Referred:

Citation : (1995) 2 PLJR 734

Hon'ble Judges : G.B. Patnaik, C.J;B.P. Singh, J

Bench : Division Bench

Judgement

1. An ex-parte order was passed by the Assessing Officer which is being challenged, inter alia, on the ground that the Petitioner did not have reasonable opportunity in the assessment proceeding and as such the assessment order is vitiated.

2. Learned Counsel appearing for the Commercial Taxes authorities contends that the Petitioner did not appear in the proceeding and thereafter even though sufficient opportunity being afforded he did not avail and ultimately the Commercial Taxes Officer had no other option than to pass the assessment order on the basis of the materials available to him. He further contends that even thereafter the Petitioner should have exhausted the alternative remedy before coming to this Court.

3. The tax liability is of Rs. 1,04,367.20. Admittedly, the Petitioner could not appear before the authorities and the authorities have passed the ex-parte order. The Petitioner''s shop is a small one providing food.

4. In the circumstances, we quash the impugned order. The Assessing Officer is directed to give an opportunity of hearing to the Petitioner and conclude the proceeding in accordance with law after hearing the Petitioner. The Petitioner through his counsel is directed to appear before the Assessing Officer on 24th July, 1995 on which date the Assessing Officer shall fix a date of hearing and thereafter shall conclude the proceeding. If the Petitioner does not appear on

24th July, 1995 as directed by this Court, it is open to the Assessing Officer to conclude the proceeding. This application is thus disposed of.

