

(2020) 12 PAT CK 0099

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 297 Of 2019

Thakur Traders

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 10-12-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 12 PAT CK 0099

Hon'ble Judges : Sanjay Karol, CJ;Prabhat Kumar Singh, J

Bench : Division Bench

Advocate : Niraj Kumar, Vikash Kumar

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ application has been filed under Article 226 of the Constitution of India, in which, the petitioner has prayed for following relief:

â??For issuance of a writ in the nature of certiorari for quashing of the Ex-parte order dated 05.02.2018 passed by the Respondent no.3/Assistant

Commissioner of Commercial Taxes, Sitamarhi and also for quashing of the consequent demand notice dated 05.02.2018 issued by the said

Respondent (Annexure â?" 1 to the writ application) and remand the matter back to the Assessing Officer for passing the assessment order in

accordance with law after hearing of the petitioner.â??

3. It is submitted on behalf of the petitioner that impugned order of assessment dated 5.2.2018 and consequent demand notice are unsustainable in the

eye of law on the ground that same is non-speaking as well as ex-parte. Writ petitioner was not given any opportunity to place his case.

4. After hearing learned counsel for the petitioner and considering the relief sought for in the writ application, the impugned order dated 05.02.2018

passed by the Respondent no.3/Assistant Commissioner of Commercial Taxes, Sitamarhi as well as consequent demand notice dated 05.02.2018 are

hereby quashed and the matter is remanded back to the authority concerned to consider the matter afresh after giving an opportunity of hearing to the

petitioner and petitioner is directed to appear before the Respondent no. 3 within a period of four weeks from today by way of filing representation

alongwith the copy of this order. The concerned respondent i.e. Respondent no. 3, without being prejudiced with this order, will the examine the same

on its own merit and pass a reasoned order on or before 28th of February, 2021. It is expected that the petitioner would fully cooperate with the

respondents.

5. With above observation and direction, the writ application stands disposed of.