

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11221 of 2019

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Ram Charitra Ram, Harihar Prasad through its authorized representative Mr. Vijay Kumar Modi, aged about 32 years, Son of Shri Gopal Prasad Modi, Resident of Bari Dariyapur, Jamalpur, Post Office- Jamalpur, Police Station- Jamalpur, District- Munger, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary-cum-Commissioner of State Tax, Bihar Patna having its office at Vikas Bhawan, Bailey Road, Patna.
2. The Joint Commissioner of State Tax, Kishanganj Circle, Kishanganj.
3. The Deputy Commissioner of State Tax, Kishanganj Circle, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jayanta Ray Chaudhury, Advocate
For the Respondent/s : Mr. Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 17-05-2019 Heard Mr. Jayant Ray Choudhary, learned counsel for the petitioner and Mr. Vikash Kumar, learned SC 11 representing the State.

While praying for quashing of an order dated 07.05.2019 passed by Respondent no. 3 -Deputy Commissioner of State Tax, Kishanganj Circle, Kishanganj, whereby in purported exercise of power vested in him under Section 68(3) read alongside Section 129(1) and 129(3) of the Bihar Goods and Service Tax Act, 2017 (hereinafter referred to as 'the Act'), not only the goods loaded on the Truck bearing Registration No.



WB-23C-8474 have been seized, a demand as well has been raised for tax to the tune of Rs.2,30,722/- together with penalty of equal amount which comes to Rs.4,61,444/-.

It is stated by Mr. Jayant Ray Choudhury that it is under the valid transport document including an 'E Way Bill' that the goods in question were being transported from Hajipur to Kishanganj and though the show cause notice mentions that it was intercepted during movement but the fact is that the exercise was carried out outside the godown of the distributor who is the petitioner before this Court. He submits that allegation against the petitioner is not of transporting the goods beyond the city of Kishanganj rather even while it was stationed that the proceeding has been initiated, tax assessed and penalty imposed.

Mr. Vikash Kumar, learned counsel representing the State counters the statement of the petitioner to submit that the vehicle was in movement.

We shall allow the State respondents to file their counter affidavit but in the nature of the goods that is found loaded coupled with the fact that proceedings have been initiated for an alleged default within the city of Kishanganj and not beyond the destination and bearing in mind the provisions of



Section 129(1)(c) of the Act, we direct respondent no. 3 or the authority competent to do so, to release the goods in question within 48 hours of receipt/production of a copy of this order on furnishing of security by the petitioner in terms of the provisions underlying Section 129(1)(c) of 'the Act'. In so far as the inter-party contest is concerned, as prayed, we allow Mr. Vikash Kumar to seek instruction and file counter affidavit when the matter would come up under the heading 'For Orders-I' on 27th June, 2019 with a view to its final disposal.

List this case on 27th June, 2019.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

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