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**(2020) 12 PAT CK 0100**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 3785 Of 2019

Deputy Chief Material Manager

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

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**Date of Decision:** Dec. 10, 2020

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

**Bench:** Division Bench

**Advocate:** D.K.Sinha, Vikah Kumar

**Final Decision:** Disposed Of

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### **Judgement**

Petitioner has prayed for the following relief(s):-

i] For quashing the order dt. 13.07.2018 passed by the respondent Commercial Taxes Officer, Samastipur Circle, Samastipur for the period 2015-

16 by which he has passed the order of assessment under the provisions of Bihar Tax on Entry of Goods into the Local Area for Consumption, Use or

Sale Therein Act, 1993 (hereinafter referred to be as the Bihar Entry Tax Act™) and has acceded his jurisdiction in imposition tax on re-printed rail

tickets which is not a scheduled goods under the provisions of the said Act and hence has acted beyond his authority;

ii] For a declaration that the imposition of tax on goods being not a part of the scheduled goods under the Bihar Entry Tax Act, 1993 is wholly without

any authority of law and as such liable to be interfered with;

iii] For a declaration that the impugned order has been passed ignoring the order of this Hon™ble Court dt. 13.04.2018 passed in CWJC No.

5498/2016 while imposing penalty against the petitioner;

iv] For quashing of the imposition of penalty without considering that in the facts of the present case no penalty could have been imposed against the

petitioner, in view of the law laid down by this Honâ€™ble Court in the case of Union of India Vs. State of Bihar, reported in (2012) 4 PLJR 216;

and/or for any other reliefs for which the petitioner may be found entitled to in the facts and circumstances of the present case.

After the matter was heard for some time, Mr. D.K.Sinha, learned senior counsel appearing on behalf of the petitioner, under instructions, states that

petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.

Permission granted.

Shri Vikash Kumar, learned Standing Counsel No. 11, states that if such an appeal is preferred within a period of two months from today, the issue of

limitation shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner is permitted to prefer an appeal within a period of two months from today, if possible, through digital mode.

(b) in the event of appeal being preferred within a period of two months from today, the issue of limitation shall not come in the way of adjudication of the appeal on merits;

(c) opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;

(d) petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;

(e) the authority shall decide the appeal on merits, in compliance of the principles of natural justice;

(f) equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

- (h) we have not expressed any opinion on merits and all issues are left open;
- (i) if necessary, proceedings during the time of current Pandemic [Covid-19] would be conducted through digital mode;
- (j) liberty reserved to the petitioner to challenge the order, if required and desired.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.