

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.8377 of 2014**

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1. Subhajit Das, son of Shri Bimal Das, resident of Bhatta Bazar ( near Lakhan Chowk ), P.O. Bhatta Bazar, P.S. Khajanchi Hat, District - Purnea
  2. Dharmendra Thakur, son of Shri Jag Narain Thakur, resident of Village - Gaura, P.O. Gaura, P.S. Bihia, District - Ara

.... .... Petitioners

Versus

1. State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its Office at Vikas Bhawan, Bailey Road, Patna
2. Dy. Commissioner of Commercial Taxes, Integrated Check Post, Karmnasha ( Kaimur )
3. Assistant Commissioner of Commercial Taxes ( In Charge ), Integrated Check Post, Karmnasha ( Kaimur )
4. Assistant Commissioner of Commercial Taxes Central Investigation Bureau, Bihar, Patna

.... .... Respondents

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**Appearance :**

For the Petitioners : Mr. D.V.Pathy, Adv.  
Mr. Abhi Sarkar, Adv.  
For the Respondents : Mr. Principal AAG

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**


**HONOURABLE MR. JUSTICE GOPAL PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 30-01-2015**

The 1<sup>st</sup> petitioner is the owner of the vehicle bearing Regn. No.BR-11R-7770 and the 2<sup>nd</sup> petitioner is the driver. It is stated that the vehicle was used for transporting canned beer from the State of Maharashtra to State of Arunachal Pradesh through various States including Bihar. The vehicle was intercepted on 19.3.2014 and the vehicle, together with the goods, was seized by stating certain reasons. Thereafter, the matter was heard



by the 4<sup>th</sup> respondent, i.e. the Assistant Commissioner of Commercial Taxes, Central Investigation Bureau, Bihar, Patna. An order was passed on 21.3.2014 levying the tax of Rs.5,60,822/- upon the goods and three times penalty thereon, aggregating to Rs.16,82,470/-. The petitioners felt aggrieved by that order and filed this Petition, though the prayer in the petition is somewhat different.

Heard Shri D.V. Pathy, learned counsel for the petitioner and learned counsel for the Respondents.

Several grounds are urged in challenge to the proceeding that was challenged in the writ petition. However, from the record we find that the order dated 21.3.2014, passed by the 4<sup>th</sup> respondent was not challenged directly. In fact, the one challenged in the writ petition is the order dated 30.3.2014 which is nothing but a notice of hearing dated 21.3.2014. There is nothing like any order dated 30.3.2014.

Be that as it may, the order dated 21.3.2014, passed by the 4<sup>th</sup> respondent is appealable. The petitioner is at liberty to avail the remedy of appeal. On 15.5.2014, this Court passed an interim order directing release of the goods, as well as the vehicle, on furnishing bank guarantee for a sum of Rs.5,00,000/-. The guarantee is said to have

been furnished and the vehicle, as well as the goods, are released.

Having regard to the facts and circumstances of the case, the writ petition is disposed of, leaving it open to the petitioner to avail the remedy of appeal.

If the appeal is presented within four weeks from today, it shall be entertained without raising any objection on the point of limitation. The arrangement ordered by this Court shall remain in force till that period and the manner in which the matter shall be dealt with is left open to the appellate authority.

**(L. Narasimha Reddy,CJ)**

**(Gopal Prasad, J)**

K.C.jha/-  
N.A.F.R.

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