IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14205 of 2012

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. Surya Narayan Prasad S/O Late Ram Nath Prasad R/O Kagji Mohalla, P.O. & P.S. Siwan, District - Siwan

.... Petitioner

Versus

1. The Chief Commissioner Of Income Tax, Central Revenue Building, Bir Chandra Patel Path, Patna
2. The Commissioner Of Income Tax, Bela, Muzaffarpur
3. The Deputy Director Of Income Tax, (Inv), Ranchi
4. The Income Tax Officer, Chapra
5. The Income Tax Officer, Siwan

.... Respondents

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Appearance :

For the Petitioner : Mr. Krishna Mohan Mishra

For the Respondents : Mrs. Archana Sinha, Sr. S.C.

Mr. Suman Kumar Mishra, Jr. S.C.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

5 03-04-2015 Heard learned counsel for the petitioner and learned Senior Standing Counsel for the Income-tax Department.

The petitioner has approached this Court for a direction to the respondents to adjust the demand created under the Income-tax Kar Vividh Samadhan Scheme, 1998 of Rs.10,032/- and Rs.1,12,902/- for the assessment year 1990-91 and 1991-92 respectively against the seized amount of Rs.2,68,866/- and refund remaining amount of the petitioner along with interest and for further consequential reliefs.

The matter brought before this Court by the petitioner appears to be a stale one, as it relates to the applications under the aforesaid Kar Vividh Samadhan Scheme, 1998 filed by the petitioner on 30.11.1998 and 28.12.1998. The petitioner has not brought before us the entire facts deliberately suppressing various developments that had taken place in the meantime.

It is only from the counter affidavit filed on behalf of the respondents that the entire picture has emerged including the fact that the petitioner had been intimated regarding the adjustment of the amounts under the demand draft totaling to Rs.2,68,666/-, which was lying with the Central Coalfield Ltd. way back in the year 1999. The said fact of adjustment was also intimated by the Central Coalfield Ltd. vide letter dated 11.10.1999 addressed to the Addl. Director of Income Tax with regard to attachment under Section 226 (3) of the Income Tax Act, 1961 in the case of the petitioner, a copy of which was also sent to the petitioner which the petitioner says that he has not received. Several intimations are said to have been made to the petitioner from time to time including by letter dated 7.8.2012 sent by the Income- tax Officer, Ward-Siwan, in which the entire facts had been narrated yet the petitioner did not choose to bring the said facts before this Court in his writ petition.

It is clearly submitted in the said letter dated

7.8.2012 that the seized amount of Rs.2,68,886.52 has already been deposited into the Central Government Account for the assessment year 1991-92 on 16.8.1993 & 20.8.1993 against the I.T. dues and the petitioner was requested to pay balance tax payable of Rs.65,499/- and therefore, the claim of refund made by the petitioner was not genuine.

It was also pointed out in the said letter that the Commissioner of Income Tax, Muzaffarpur, i.e., the designated authority under the Scheme, considered the application of the petitioner and by his letter dated 11.3.1999 stated that the payment of sum payable under KVSS, 1998 was to be made within 30 days of the order passed under the Scheme and there is no provision of attachment under the Scheme and advised the petitioner to pay the amended demand within time limit, which fact was also accepted in his letter dated 18.3.1999 addressed to the Chief Commissioner of Income- tax, Patna.

It was further pointed out in the said letter that since the petitioner had not paid the sum determined payable under KVSS, 1998 within the time limit of 30 days from the date of the order as per the provision of Section 93 (2) of KVSS, 1998 and did not submit the proof of payment, the certificate in Form-3 was not issued by the Commissioner of Income-tax, Muzaffarpur and the declaration made by the petitioner under KVSS, 1998 became null and void. The order under Section 154 for the assessment year 1991-92 was passed on 23.12.2003 raising the demand of Rs.65,499/- + interest under Section 220 (2) of the Act.

Learned counsel for the petitioner has sought to assail the stand of the respondents by raising various pleas but he has not been able to meet the contentions as raised in the letter dated 7.8.2012 as also the various facts enumerated in the counter affidavit. He has only sought to reiterate what he has stated in the writ petition without meeting the legal and factual issues raised therein.

On a consideration of the facts and circumstances of the case, we do not find any merit in the writ petition.

It is evident that the petitioner, instead of complying with the letter dated 11.3.1999 of the Commissioner of Income-tax, Muzaffarpur and making payment within 30 days as directed, wherein it was clearly stated that there is no provision for attachment under the Scheme, failed to pay the amended demand within the time limit and thus by his own action, the petitioner failed to avail of the benefit under KVSS, 1998 and it is not open to the petitioner to harp upon the same issue again and again when the Department had made the matter clear to him way back on

11.3.1999, which fact was even admitted by him at that time.

In the aforesaid view of the matter, the writ application is dismissed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

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