IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18894 of 2015

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1. Santosh Kumar Jha, son of Bhagwan Lal Jha, resident of village- Sangi, P.S.- Phulparas, District- Madhubani at present 122, Jamuna Apartment, Boring Road, P.S. Sri Krishna Puri, Distt. Patna Bihar, PIN Code- 800001.

.... Petitioner/s

Versus

1. The Income Tax Appellate Tribunal, Patna Bench, Patna.
2. The Commissioner of Income Tax (Appeal)-I, Patna.
3. The Deputy Commissioner of Income Tax, Central Circle-2, Patna.
4. The Tax Recovery Officer, Central Range-1, Patna.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.
For the Respondent/s : Mr. Archana Sinha @ Archana Shahi, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

JUDGMENT AND ORDER
ORAL
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 12-07-2016

Heard Mr. Ranjan Kumar Jha, learned Counsel, appearing on behalf of the appellant, and Mrs. Archana Sinha @ Archana Shahi, learned Senior Standing Counsel, Income Tax, appearing on behalf of the Income Tax Appellate Tribunal-respondents.

With the help of this application made under Article 226 of the Constitution of India, the petitioner has impugned the demand notice, dated 17.08.2015, issued by respondent No.3, namely, Deputy Commissioner of Income Tax, Central Circle-2, Patna, on the ground that the said demand notice had been issued without determination of the taxable liability of the petitioner and without making any assessment order.

By order, dated 03.02.2016, passed in this writ petition, the operation of the impugned demand notice, dated 17.08.2015, was stayed, making the order of stay subject to condition that the petitioner shall cooperate, appear and participate in the assessment proceeding even if the assessment proceeding is held on day-to-day basis.

In view of the above, an assessment order has been made, on 29.02.2016, by respondent No.3, which, it is submitted on behalf of the petitioner, would be challenged in accordance with law.

Because of the fact that a fresh assessment has already been made and if any demand notice has to be issued, the same can be issued only pursuant to the assessment order, which has been made on 29.02.2016, the presently impugned demand notice, dated 17.08.2015, has become infructuous and this writ petition is, therefore, closed with liberty given to the petitioner to approach this Court with appropriate application, in future, if so advised, and also to take recourse to such provisions of law as may be permissible.

(I. A. Ansari, ACJ)

(Anjana Mishra, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.07.2016
Transmission Date	N.A.