

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15001 of 2016

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Rakesh Kumar S/o - late Mahangu Singh, Flat No. 703, Jagat Trade Centre, Frazer Road, P.S. - Gandhi Maidan, District - Patna.

.... Petitioner

Versus

1. The Principal Chief Commissioner of Income Tax, Bihar and Jharkhand, Revenue Building Veerchand Patel Path, Patna.
2. The Commissioner of Income Tax II, Revenue Building, Veerchand Patel Path, Patna.
3. The Commissioner of Appeal II, Lok Nayak Bhavan, 4th Floor, Patna.
4. The Assistant Commissioner of Income Tax, Circle 4, Lok Nayak Bhawan, Patna.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Krishna Mohan Mishra, Advocate.

For the Respondent/s : Mr. Rishi Raj Sinha, Sr. SC.

Mr. Archana Prasad, Jr. SC.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 06-12-2016

The petitioner has filed the present writ application for a direction to the Commissioner of Income Tax, Appeal-II to dispose of the appeal as well as an application for stay of demand.

The petitioner relies upon the circular dated 29.02.2016 (Annexure-P/6) whereby, if the outstanding demand is disputed before the Commissioner of Income Tax (Appeal), the assessing officer shall grant stay of demand till disposal of first appeal on payment of 15% of the disputed demand, unless the case falls in the category discussed in Para 4 (B) of the said circular. It is



contended that the claim of the petitioner does not fall in any of the category of Para 4(B) of the Circular dated 29.02.2016, therefore, in terms of Para 4(A), the petitioner is entitled to stay of recovery of demand.

Accordingly, we dispose of the present writ application with direction to the Commissioner of Income Tax (Appeal) to decide the appeal as well as the application for stay of demand on merits in accordance with law expeditiously preferably within three months from the date of receipt/production of a copy of this order.

(Hemant Gupta, ACJ)

Mishra/-

(Dinesh Kumar Singh, J)

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	14.12.2016
Transmission Date	

