

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10196 of 2012

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Smt. Usha Gupta, Wife Of Late Kashi Nath Gupta, Resident Of- Emart-Al-Harman, Bank Road, P.S.- Gandhi Maidan, District- Patna, Presently Residing At East Boring Canal Road, Patna.

.... Petitioner/s

Versus

1. The Union of India, through Chairman, Central Board of Direct Taxes, New Delhi.
2. The Commissioner of Income-Tax II, Central Revenue Building, Birchand Patel Marg, Patna.
3. The Income-Tax-Officer, Ward-6 (4), Patna.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Pritish Kumar Lal, Advocate
For the Respondents	:	Mrs. Archana Sinha, Advocate
		Ms. Vijaya Laxmi Srivastava, Advocate
		Mr. Alok Kumar, Advocate

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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 grievance of the petitioner in the present writ petition is with regard to delay in refund of the tax for the assessment years 1987-88 and 1997-98.

2. The petitioner has been paid refund amount for



the assessment year 1987-88 with interest, whereas principal amount of refund for the assessment year 1997-98 has been paid. The grievance is with regard to non-payment of interest on the refund amount of assessment year 1997-98.

3. Learned counsel for the respondents states that refund was issued on 25th of August, 1998, but in view of the communication that the refund was not received, the refund was revalidated and issued to the assessee on 27th of July, 2015. Therefore, the petitioner is not entitled for the delayed payment.

4. The question which arises is that the petitioner invoked writ jurisdiction of this Court in respect of non-payment of refund amount for the assessment year 1997-98 in the year 2012. The claim, thus, grossly suffers from delay and laches.

5. The argument of the petitioner is that she has been submitting grievance petition for all these years but the respondents did not pay any heed and thus prays that in fact there is no delay.

6. This Court will exercise jurisdiction only if a litigant is not found to be sleeping and invokes the jurisdiction of this Court without delay and laches. Similarly, the Supreme Court in a judgment reported as Ex. Capt. Harish Uppal v. Union of India, 1994 Supp (2) SCC 195, held that mere



submission of the representations is not a ground on the basis of which delay can be ignored.

7. In view thereof, the writ petition is dismissed.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

P.K./D.K.S.

AFR/NAFR	N.A.F.R
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