IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4089 of 2017

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M/s Nagar Parishad Phulwarisharif through its Executive Officer, Lakhendu Paswan S/o Sri Basu Paswan, Nagar Parishad, Phulwarisharif, Patna.

.... Petitioner/s

Versus

1. Chief Commissions of Income Tax, Revenue Building, Bailey Road, Patna-800001.
2. Commissioner of Income Tax, T.D.S. Revenue Building Bailey Road, Patna-800001.
3. Income Tax Office, T.D.S. Made Revenue Building, Bailey Road, Patna-800001.
4. Branch Manager M/s Oriental Bank Commerce, Phulwarisharif, Patna-801505
5. M/s Canara Bank, Nilam Place, Khojai Imli, Phulwarisharif, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prakash Sahay, Advocate
For the Respondent/s : Mrs. Archana Sinha, Sr. S.C.
Mrs. Sheela Sharma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 28-03-2017

Having heard learned counsel for the parties at length we are of the considered view that the petitioner is a statutory local authority and it is the grievance of the petitioner that their bank accounts have been attached on account of non-payment or deposit of the T.D.S. (Tax Deducted at Source) and it is their contention that they have not been heard, opportunity of making submission and document has not been afforded to them and a proper order as required under Section 201 of the Income Tax Act, 1961 has not been passed.

Learned counsel for the Revenue refutes each and every contention and tries to demonstrate before us that the contentions advanced with regard to non-grant of opportunity is not correct, inspite of opportunities being given to the petitioner, they failed to avail of the opportunity, therefore, coercive steps was taken.

Keeping in view the totality of the circumstances and the fact that the petitioner is a statutory local authority, interest of justice requires that they should be granted one more opportunity of being heard and for laps of any omission on the part of some officer the Statutory Body should not suffer.

Keeping in view the aforesaid, we allow this petition in part and dispose it of in the following manner:-

The petitioner shall appear before the Assessing Officer or the competent authority of the department along with a certified copy of this order and submit all their objections with regard to the demands made along with all relevant documents on 10th of April, 2017 and on the same being done, the competent authority shall proceed to decide the matter in accordance with law after considering the objections and documents that may be filed by the petitioner. Needless to emphasize that if petitioner fails to avail of the opportunity granted and does not appear before the authority on the date fixed by this Court, the competent authority shall be free to proceed in the matter in accordance with law. Till hearing is not granted to the petitioner and a proper order is not passed or action as per law not taken, further recovery in pursuance to the impugned order/demand shall remain stayed and the attachment of the bank account of the petitioner shall stand released till decision in the matter afresh as directed by this Court.

The Writ Petition is accordingly disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.04.2017
Transmission Date	