IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2556 of 2016

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Rajendra Singh son of Late Charan Singh resident of M/s Bhargo Saw Mill, Mithapur, P.S.- Jakkanpur, District- Patna proprietor of M/s Bhargo Saw Mill, Mithapur, P.S.- Jakkanpur, District- Patna.

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Department of Revenue, North Block, New Delhi- 110001.
2. The Chairman, Central Board of Direct Taxes, North Block, New Delhi- 110001.
3. The Director General of Income Tax (Investigation), Central Revenue Building, Virchand Patel Marg, Patna- 800001.
4. The Director of Income Tax (Investigation), Central Revenue Building, Virchand Patel Marg, Patna- 800001.
5. The Additional Director of Income Tax (Investigation), Central Revenue Building, Virchand Patel Marg, Patna- 800001.
6. Sri L.K. Kanak, Deputy Director of Income Tax, (Investigation Unit-II), Central Revenue Building, Virchand Patel Marg, Patna- 800001.
7. The Divisional Forest Officer, Patna Forest Division, Patna, Sanyukt Van Bhawan, Nehru Nagar, Patna- 800013.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vinay Mistry, Advocate
For the Respondent/s	:	Mrs. Archana Sinha, Advocate
		Mr. Alok Kumar, Advocate
		Mr. Sanjeev Kumar, Advocate
For Respondent No. 7	:	Mr. H.S. Sundaram, A.C. to S.C. 8

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-11-2017

A search and seizure was conducted in the petitioner's business premises under Section 132(1) of the Income Tax Act, 1961 between 08.09.2010 to 10.09.2010 and it is the contention of the petitioner that 3080 CFT of Sagwan and Badam wood were seized and taken away by the Income Tax officials. Seeking release of the aforesaid seized wood and contending that a representation made by the petitioner in this regard to the competent authority of the department has not been considered and decided, this writ petition has been filed and today during the course of hearing learned counsel stated that he would be satisfied if the matter is examined by a competent authority and a decision taken on his representation.

However, learned counsel appearing for the Income Tax Department points out that in fact a seizure-list was prepared after the seizure indicating the quantity of wood but it is specifically averred by her that the wood was never taken away after including them in the seizure-list and, therefore, there is no question of returning the wood.

After hearing learned counsel for the parties, we find that in the raid that was conducted between 08.09.2010 to 10.09.2010 certain materials were seized and a seizure-list was also prepared and in Annexure-6 dated 30th of April, 2014 written to the petitioner by the Assistant Income Tax Commissioner, Circle-3, Patna, a copy of the seizure-list was enclosed to him. Now, if the wood was not seized, the reason for its inclusion in the seizure-list becomes doubtful and a dispute.

That being so, as the grievance made by the petitioner is to return the wood seized, it is thought appropriate to direct Respondent No. 4 the Additional Director of Income Tax (Investigation), Patna to look into the grievance of the petitioner, cause an inquiry into the matter and if it is found that the wood in question has been seized and in accordance with law petitioner is entitled to return of the same, he may pass appropriate orders returning the material in question to the petitioner and it shall be incumbent upon the respondents to record reasons for the same and pass a speaking order. Either way, the action be taken and a decision communicated to the petitioner within 60 days from the date of receipt of a certified copy of this order.

With the aforesaid, we dispose of the writ petition.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.11.2017
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