IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8925 of 2016

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International Hotel Siwan, a partnership firm having its office at Babunea Road, P.O. & P.S. Siwan, Town and District Siwan – 841226, through its partner, Mumtanj Ali, son of Abdul Samad, resident of Babunea Road, P.O. & P.S. Siwan, Town and District Siwan-841226, Bihar. At present C/o Hotel Shabnam, Thawe Road, P.O. & P.S.- Gopalganj, Town and District-Gopalganj-841428.

.... Petitioner/s

Versus

1. Commissioner of Income Tax having its office at Bela, Muzaffarpur.
2. Asstt. Commissioner of Income Tax, Circle 2 (1), Muzaffarpur.
3. Income Tax Officer, Ward 2 (2), Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kishun Chand Kumar Sinha

For the Respondent/s : Mr. Archana Sinha @ Archana Shahi

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 19-07-2018

Petitioner in the present case is challenging the notice dated 08.12.2014 (Annexure-2), the order dated 05.02.2016 (Annexure-7) and the order dated 21.03.2016 (Annexure-10 series) passed by the respondent authorities.

The contention of the petitioner is that the respondent no.2 has passed an ex-parte order of assessment under Section 144 read with Section 147 of the Income Tax Act, 1961 (hereinafter referred to as the ‘Act’) and thereby the respondent has imposed tax on deemed consideration on sale of the hotel building under the provisions of Section 50C of the Act. Various contentions have been raised at the bar for and against.

Learned counsel representing the respondent authorities has contested the submissions of the learned counsel representing the petitioner submitting that the orders impugned in the present writ application are appealable and hence in view of the alternative statutory remedy available to the petitioner, this Court need not examine the issues raised on behalf of the petitioner at this stage in the present writ application.

After having heard learned counsel for the parties, we are of the considered opinion that there being an alternative statutory remedy of appeal under Section 216 of the Act before the Commissioner of Income Tax (Appeals), the petitioner may agitate all such issues which are available to him before the appellate authority. In case such an appeal is preferred by the petitioner within a period of thirty days from today, the appellate authority shall consider the same on its own merit and in accordance with law.

The writ application is disposed off accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	21.07.2018
Transmission Date	