IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19185 of 2017

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North Bihar Power Distribution Co. Ltd., a Company incorporated Under the Companies Act, 1956 having its Head Office at Vidut Bhawan Bailey Road, Patna 800001 through its Deputy General Manager-Finance Anurag, Son of Late Rajendra Prasad Resident of Flat No.406 Ramayan Apartment Exhibition Road P.O. GPO, P.S. Gandhi Maidan, District-Patna.

... ... Petitioner/s

Versus

1. Commissioner of Income Tax, TDS Having its Office at Central Revenue Building, Bir Chand Patel Marg, Patna.
2. Assistant Commissioner of Income Tax, TDS, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate Mrs. Manju Jha, Advocate Mr. Sadashiv Tiwary, Advocate
For the Respondent/s	:	Mrs. Archana Sinha @ Archana Shahi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-01-2018

Having heard learned counsel for the parties we find that while rejecting the prayer of stay made by the petitioner vide Annexure-C, on 26.12.2017, the Assessing Officer seems to have not taken note of the requirement of the Circular dated 29th February, 2016 issued by the Central Board of Direct Taxes and a complaint is also made by the petitioner that certain judgments cited have not been taken note of.

Learned counsel for the Revenue vehemently opposes this submission and argues that no such submission was made before the Assessing Officer when the stay application was filed.

Without entering into the controversy on merits as canvassed before us, interest of justice would be met, in case the matter is remanded back to the competent authority to reconsider the question of stay.

Accordingly, we dispose of the writ petition with the following directions:

On the petitioner filing a certified copy of this order along with a detailed application for stay before the competent authority pointing out the circular of the Central Board of Direct Taxes dated 29th February, 2016, judgments, if any, in favour of the petitioner with regard to grant of stay along with the copy of the judgments, the competent authority shall reconsider the question and pass a speaking order with regard to stay or otherwise within a period of 15 days thereafter.

Till the matter is not decided by the competent authority, all coercive steps shall be kept in abeyance.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2018
Transmission Date	