# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.2538 of 2018**

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Dr. Gitanjali Kumari, legal heir and Wife of Late Dr. Anil Kumar, Resident of 102, Kanika Maihar Apartment, A.N. Path, P.O.+P.S. District- Patna.

... ... Petitioner/s

Versus

1. Commissioner of Income Tax-1, having its office at Central Revenue Building, Bir Chand Patel Marg, Patna.
2. Income Tax Officer, Ward (1), Patna.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. D.V.Pathy, Advocate<br>Mr. Sadashiv Tiwari, Advocate |
| For the Respondent/s | : | Mrs. Archana Sinha @ Archana Shahi, Sr. S. C.<br>Mr. Alok Kumar, Advocate<br>Mr. Sanjeev Kumar, Advocate |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**
**ORAL JUDGMENT**
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 13-02-2018**

Petitioner, widow of late Dr. Anil Kumar, has approached this Court with a prayer that a cheque issued for refund of Rs.68,070/- in the name of her late husband be re-issued after correcting the name so that she can reap the benefit of refund as the legal heir and successor to the estate of her late husband.

The facts in brief indicate that late Dr. Anil Kumar was an assessee and was income tax payee with PAN AFQPK3320Q. However, after his death with regard to income derived by him, a return was filed for the assessment year 2014-15. The return was filed in the name of assessee late Dr. Anil Kumar, but the return was signed and submitted after his death by the petitioner-wife as is evident from Annexure-1 at page 11. The income tax return was processed by the departmental authorities through the CPC Unit Bangaluru and a refund of Rs.68070/- was ordered in the name of assessee who had died when the cheque, Annexure-3, was issued on 15th December, 2015. Now, when the representation filed by the petitioner for re-issuance of the cheque in her name after the death of her husband has not been considered, she has approached this Court for suitable direction.

Even though, learned Counsel Smt. Archana Sinha, appearing for the respondents sought time to seek instructions and file a detailed counter affidavit, we are of the considered view that looking to the nature of the dispute involved in the matter, it is not necessary, as a widowed lady is only seeking correction and re-issuance of a cheque for refund of the tax already paid on behalf of her late husband. Accordingly, we dispose of the petition with the following directions:-

On the petitioner filing all relevant documents along with a certified copy of this order supported by her own affidavit indicating the fact about the death of her husband, annexing a photo copy of the death certificate and an undertaking to the effect that if the cheque is issued in her name any complication arises in future she will refund the amount, the respondents shall re-issue the cheque for Rs.68070/- in the name of the petitioner.

On the petitioner complying with the aforesaid direction, the cheque in question shall be re-issued in favour of the petitioner within a period of fifteen days thereof. In case, the petitioner is entitled to statutory interest on the aforesaid amount, the authority shall consider the same and grant the interest on the said amount to the petitioner in accordance to law.

With the aforesaid the writ petition stands allowed and disposed of.

**(Rajendra Menon, CJ)**

**( Rajeev Ranjan Prasad, J)**

Sunil/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 20.02.2018 |
| **Transmission Date** | |