IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24724 of 2018

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North Bihar Power Distribution Co. Ltd., a company incorporated under the Companies Act, 1956 having its Office at Vidut Bhawan Baily Raod, 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. Principal Commissioner of Income Tax, having its office at Central Revenue Building, Bir Chand Patel Marg, Patna
2. Commissioner of Income Tax TDS, having its office at Central Revenue Building, Bir Chand Patel Marg, Patna
3. Asst. Commissioner of Income Tax TDS, having its office at Central Revenue Building, Bir Chand Patel Marg, Patna

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.D.V.Pathy, Adv.
For the Respondent/s : Ms.Archana Sinha @ Archana Shahi, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 15-01-2019

Heard Mr. D.V. Pathy, learned counsel for the petitioner and Ms. Archana Sinha for the Income Tax Department.

The petitioner prays for the following reliefs:

> "i) the notice of demand dated 15.11.2018 (as contained in Annexure-4 Series) issued by the respondent no.3 for the Financial Year relevant to the Assessment Year 2014-15 be stayed.
> ii) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

Mr. Pathy, learned counsel for the petitioner submits that the petitioner feeling aggrieved by the order of the Commissioner, Income Tax (Appeals), Patna has preferred an appeal before the Income Tax Appellate Tribunal, Patna Bench on 20.11.2018, however, since the Bench of the Income Tax Appellate Tribunal, Patna Bench is not available that the appeal is delayed thus raising apprehensions for the petitioner regarding enforcement of the demand by the Department dated 15.11.2018, copies of which are enclosed at Annexure-4 series and relate to the Assessment Year 2014-15. Mr. Pathy submits that the limited prayer made by the petitioner is that the concerned authorities of the Income Tax Department may be restrained from acting pursuant to the demand notice raised against the petitioner which is the subject matter of the pending appeal before the Appellate Tribunal and it is but for the nonavailability of the Bench that the hearing is delayed, for which the petitioner cannot be blamed.

This matter was heard on 08.01.2019 and on the request made by Ms. Archana Sinha, learned counsel representing the Income Tax Department and to enable her to seek instructions that the matter was adjourned and is taken up today when Ms. Archana Sinha accepts the position regarding nonavailability of the concerned Bench of Appellate Tribunal but submits that steps are being taken for its constitution and thus even if, this Court be persuaded to grant interim protection to the petitioner, it be for a limited period coupled with a direction to the petitioner of cooperating in the expeditious disposal of the appeal, as and when the Appellate Tribunal is constituted.

Mr. Pathy, fairly accepting the submissions so made, submits that there would be no lapse on behalf of the petitioner in cooperating in expeditious disposal of the appeal.

Having heard learned counsel for the parties and considering the nature of the grievance raised as well as the undisputed position existing regarding nonavailability of the Appellate Bench, we deem it proper to order for stay of the demand notice dated 15.11.2018 impugned at Annexure-4 Series to the writ petition until the constitution of the Appellate Bench and its expeditious hearing/disposal by the concerned bench.

The writ petition is allowed with the directions above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.01.2019
Transmission Date	NA