IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17236 of 2018

==

Shree Narayan Singh, son of Late Babu Raghubar Narayan Singh, resident of Dalip Mahal, Mohalla- Purabsarai, P.S.- Kotwali, District- Munger, Bihar.

... ... Petitioner/s

Versus

1. The Commissioner of Income Tax, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Commissioner of Wealth Tax, Income Tax Office, Bhagalpur.
3. The Wealth Tax Officer, Munger.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Raj Kishore Prasad, Advocate
For the Respondent/s	:	Mrs. Archana Sinha @ Archana Shahi, Advocate

==

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 12-12-2019 The petitioner has prayed for the following reliefs:

> *(i) To issue an appropriate writ(s)/order(s)/direction(s) in the nature of a writ of Mandamus directing the respondents to refund the amount of Wealth Tax illegally realized from the ancestors of the petitioner for the assessment year 1957-58 to 1961-62 along with statutory interest and also penal interest at the rate of 18% per annum for illegally withholding the said amount of wealth tax without there being any valid Assessment orders.*
>
> *(ii) To grant any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.*

The instant writ petition is in the nature of contempt petition seeking execution of the directions contained in the order dated 02.11.2010, which is reproduced as under:

> *"On a reference made by the Income Tax Appellate Tribunal in terms of Section 27 of the Wealth Tax Act 1957 (hereinafter referred to as the 'Act;), this Court answered the issues indicated in the reference by judgment dated 5.5.1972, passed in Tax Case Nos. 23 to 27 of 1966, and Tax Case Nos. 64 to 68 of 1967. Aggrieved by this judgment, the Commissioner of Wealth Tax, Patna, preferred Civil Appeal Nos. 1233-37 of 1973 (Commissioner of Wealth Tax, Patna Vs. Rahubar Narain Singh), Which was disposed of by the Supreme Court by judgment dated 20.2.1984, whereby decision of this Court was affirmed, and the appeals were dismissed with costs.*
>
> *2. During the pendency of the proceedings before the Supreme Court, the Tribunal dealt with the matter in due obedience and observance of the judgment of this Court and passed orders remitting the matter to the learned Assessing Officer. It is thus evident that, after the Supreme Court disposed of the appeals affirming the judgment of this Court, it was incumbent on the petitioner to approach the learned Assessing Officer for final order. He did the formality of approaching the learned Assessing Officer on 5.5.1993, and instead of pursuing the same, needlessly approached this Court by preferring the present writ petition. In spite of repeated queries, learned counsel for the petitioner has not been able to satisfy us that he had adequately pursued the matter before the learned Assessing Officer and it was not a case of inaction*

and/or harassment. We, therefore, do not find the slightest justification for the petitioner to approach this Court. The petitioner did not allow the learned Assessing Officer to apply his mind, and rattled him by approaching this Court. We, therefore, dismiss this writ petition with the direction to the learned Assessing Officer to pass a final order in accordance with law within a period of four months.

This writ petition is dismissed with costs quantified at Rs.10,000/- (Ten thousand), which the petitioner shall deposit in the Government Treasury under the orders of the learned Assessing Officer. The period of four months shall commence from the date of deposit of costs."

Operative portion of the order is unambiguously clear, as this Court directed passing of the order by the authority on deposit of cost, which undisputedly has not been so done by the writ petitioner.

The order was passed on 02.11.2010. The writ petitioner approached the authorities and such representation was decided way back on 03.05.2013 by passing the following order:

"To

The Commissioner of Wealth-tax,
Bhagalpur,
Attention: W.T.O. (Tech.)

Sir,

Sub.: Grievance petition in the case of Sri Rai Bahadur Dalip Narayan Singh, Truest Estate, Munger for A.Y.-1957-58 to 1961-62 – reg.

Ref.: CIT's letter F.No. CIT/BGP /Estt./Girev/2012-13/2232, dt. 03.07.2012.

"*Kindly refer to the above.*

The above named assessee has claimed refund amounting to Rs.42,244/- which he has deposited as against the outstanding demand for the A.Y.-1957-58 to 1961-62. Later on the assessee preferred an appeal before the Hon'ble Court of Judicature at Patna. The Hon'ble High Court in its judgment in civil writ jurisdiction case No. 2398 of 1995 dt. 02.11.2010 has directed the wealth tax authority to make the assessment afresh on deposition of a cost of Rs.10,000/- by the assessee.

From perusal of the petition filed by Sri Samri, Adv. of the assessee, it transpires that the assessment was made by W.T.O., Special Circle, Patna. No assessment records are traceable in this office nor the assessee's representative is in a position to give the copy of the orders originally passed. A reply to this effect has already been sent by my predecessor I.T.O. vide letter F.No. ITO/W-1/MGR/Grievance/2012-13/107, dt. 20.06.2012. Copy of which is enclosed herewith for the ready reference.

Under the above circumstances it is therefore requested that necessary direction may kindly be issued in the case.

With regards."

We notice that the reasons specified in the said communication are two fold: (a) Non-deposit of the amount in terms of the direction issued by this Court; and (b) Non-availability of the relevant records.

We notice that even thereafter the writ petitioner slept over the matter and did not approach this Court or exhaust other remedies in accordance with law, and, as such, in the present petition, which has been filed on 27.08.2018, no other or further directions can be passed, it being delayed as also the conduct of the petitioner, not warranting interference in a writ jurisdiction. It is, accordingly, disposed of.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

uday/-

U			