IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5543 of 2019

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Manokamna Enterprises Pvt. Ltd. a Company incorporated under the Companies Act, 1956 having its office at 202, N.P. Centre New Dak Bunglow Road, Patna through its director Prashant Banka , Son of late Pawan Kumar Banka resident of Devi Market Chowk, P.O. Jhau Ganj and P.S. Chowk, District- Patna.

... ... Petitioner

Versus

1. Principal Commissioner of Income Tax I, having its office at Central Revenue Building, Bir Chan Patel Marg, Patna.
2. Asst. Commissioner of Income Tax OSD, Ward No. 2, Patna.
3. Income Tax Officer, Ward 2(1), Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Adv. Ms. Manju Jha, Adv.
For the Respondent/s	:	Ms. Archana Sinha @ Archana Shahi, Sr. SC Mr. Alok Kumar, Jr. SC

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 15-04-2019 Heard Mr. D.V. Pathy, learned Counsel for the petitioner and Ms. Archana Sinha, learned Senior Standing Counsel appearing for the Department.

The petitioner questions the notice dated 28.03.2018 by the Assistant Commissioner of Income Tax OSD, Ward No.-2, Patna in purported exercise of power under Section 148 of the Income Tax Act (hereinafter referred to as ‘the Act’), impugned at Annexure-4 together with the order dated 22.12.2018 passed by the said authority for the assessment year 2011-12 impugned at Annexure-10 series.

Though Mr. Pathy, learned Counsel appearing for the petitioner raises issue regarding absence of pre-requisite to exercise such power but bearing note of the conduct of the petitioner as reflected from the assessment order, we are not persuaded to grant indulgence and thus while reserving our opinion on the inter-party dispute, we shall allow the petitioner to exhaust alternative remedy so available to him in law.

It goes without saying that in case the petitioner would prefer an appeal within six weeks from today accompanied with the petition for condonation of delay, the Appellate Authority shall consider and dispose of the same in accordance with law and on its own merits bearing in mind that the petitioner was pursuing the matter before the Court.

This disposes of the writ petition.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

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