IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9647 of 2019

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Amresh Kumar Son of Late Ramsidh Sharma, resident of Village Dariyapur, P.S.- Bihta, District Patna Prop. M/S Shubham Auto Mobile Bihta, Patna.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary of India, Ministry of Finance Income Tax Department New Delhi.
2. The Commissioner of Income Tax, Inistry of Finance C.I.T (A) Central Revenue Building, Beer Chand Patel Marg, Patna-1.
3. The Assistant Commissioner of Income Tax Circle-1 Patna, 3rd Floor, Lok Nayak Jay Prakash Bhawan, Dak Bunglow Road, Patna- 1.
4. The Deputy Director Income Tax (Investigation) Unit-1 3rd Floor, Central Revenue Bhawan, Beer Chand Patel Marg, Patna-1.
5. The Deputy Commissioner of Income Tax Circle 1 (1) Patna, Lok Nayak Jay Prakash Bhawan, New Dak Bunglow Chowk, Patna-1.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Kant Kumar, Adv.
For the Respondent/s	:	Mr. S.D. Sanjay, Addl. Solicitor General

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

4 14-05-2019 Heard learned counsel for the parties.

The order of the Commissioner, Income Tax(Appeal) is appealable before the Tribunal. It is without exhausting the remedy so available under the Income Tax Act, 1961 (hereinafter referred to as 'the Act') that the petitioner is before this Court.

Learned counsel for the petitioner has questioned the order of the Commissioner, Income Tax(Appeal) at

Annexure-5 to submit that though dated 31.08.2018, the signature of the appellate authority is missing.

The issue is contested by Ms. Archana Sinha, learned counsel for the Income Tax Department by filing counter affidavit and enclosing another copy of the order passed by the Commissioner, Income Tax (Appeal) which is digitally signed and in reference thereto she submits that since due to technical default the digital signature of the appellate authority was not being uploaded but the order was uploaded which was communicated to the petitioner, hence the discrepancy but subsequently the order has been signed on 07.09.2018 and also communicated to the petitioner. She submits that the practice followed in the Department of disposal of appeal is electronically and not in hard copy.

Having considered the submissions as well as in view of the explanation given by the Department regarding the missing signature as well taking note of the fact that limitation so prescribed under ‘the Act’ must have lapsed by now, we allow the petitioner to exhaust the remedy of appeal so available to him under ‘the Act’ and in case the petitioner chooses to move the appellate Tribunal within 30 days of receipt of a copy of this order, the Appellate Tribunal would consider and dispose of the same in accordance with law bearing in mind that the petitioner was pursuing his cause before the High Court.

It is stated that the account of the petitioner has since been attached. The petitioner would be at liberty to raise the said issue in the appeal.

With the observations above, we dispose of the writ petition. We make it clear that we have not expressed our opinion on the merits of the case and thus the petitioner would be at liberty to raise all issues as raised in the present writ petition as well as any other issues as he may be advised in filing the appeal.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

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