IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9513 of 2019

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Smt. Shashi Bala Singh, Female, aged about 44 years, Daughter of Nand Kishore Singh Advocate, and Legal heir U/s 171 of the I.T. Act Wife of Late Achint Kumar resident of Road No. 13A Rajendra Nagar P.S. Pir Bahor Distt.-Patna.

... ... Petitioner

Versus

1. The Union of India through the Principal Commissioner, Income Tax Muzaffarpur Charge, Muzaffarpur.
2. The Income Tax Officer, Ward Siwan at and P.O. P.S. Siwan Distt. Siwan.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Singh, Adv.
For the Respondent/s : Mr. Rishi Raj Sinha, Sr.S.C.
Ms. Shilpi Keshri, Jr.S.C.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-08-2019

Heard Mr. Nand Kishore Singh, learned counsel appearing for the petitioner and Mr. Rishi Raj Sinha, learned Senior Standing Counsel for the Income Tax Department.

The petitioner by way of this writ petition filed under Article 226 of the Constitution of India prays for the following reliefs which are relatable to refund of excess tax amount deposited by the deceased husband of the petitioner by way of Deduction at Source for the period 2010-11, 2011-12 to 2018-19:

> "(i) To issue a writ of mandamus of any other appropriate writ/ order direction commanding the respondent authorities to issue refund orders which have fallen due on account of excess payment of tax by TDS and also by

coercively realized against non-existent demand for the assessment year 2010-11, 2011-12 to 2018-19 being retained by respondent no.2 for reasons not communicated to the petitioner.

(ii) To direct payment of interest on the refunds due not only at statutory rate but at penal rate for deliberate withholding of refund for inordinate period.

(iii) To direct respondent no.2 to upload at the website of department the actual demand if any standing as per appellate order and recall the erroneous demand uploaded."

It is the submission of learned counsel for the Department in reference to the supplementary counter affidavit that certain papers which would confirm the status of the petitioner as the legal heir of her husband, as detailed in paragraph 14 of the supplementary counter affidavit, is yet to be filed before the respondent no.2 i.e. the Income Tax Officer, Ward 2(4), Siwan and which has delayed the refund. Mr. Sinha, learned Senior Standing Counsel for the Department, in reference to the statement made in paragraphs 12 and 13 of the same counter affidavit has submitted that a refund amount of Rs.13,04,960/- for the period 2013-14 and 2014-15 is pending for payment which is more than the claim made by the petitioner and it is due to non-filing of the papers detailed in paragraph 14 which requires confirmation of the status of the petitioner as the legal heir of her husband as well as her Bank details that it has not been paid.

Mr. Singh, learned counsel for the petitioner, has invited our attention to the rejoinder which has been filed to the counter affidavit of the department and in reference to the enclosure at Annexure P/5 he submits that this information on legal heir has been uploaded on the portal of the Income Tax Department where they themselves admit to all the details of the petitioner as the legal heir of her husband, Achint Kumar and which approval was granted as back as on 30.10.2018. He thus submits that the stand taken by the Income Tax Officer to delay the refund runs counter to their own document at Annexure P/5 which not only confirms the status of the petitioner as legal heir of her husband Achint Kumar but also confirms every detail which the Income Tax Officer wants for routine refund claimed by the petitioner.

We are persuaded to take down the details present at Annexure P/5 which has been downloaded by the petitioner from the portal of the department and runs under:

"Details of deceased PAN

Deceased Assessee details	
PAN	AKVPK9556E
Name	ACHINT KUMAR
Date of Birth	05/11/1973
Details of Bank account of the legal heir	
Bank Account Number	31742862709
Account Type	Savings
IFS Code	SBIN0004445
Bank Name	State Bank of India

Legal Heir Details

Heir PAN	AQHPS2602M
Heir Full Name	SHASHI BALA SINGH
Heir Date of Birth	23/03/1972
Comments	APPROVED
Approval Date	30/10/2018”

In view of the information present at Annexure P/5 which is complete in all respect and answers every query which the Income Tax Officer demands from the petitioner at paragraph 14 of the supplementary counter affidavit, we are persuaded to issue direction to the respondents and more particularly respondent no.2, the Income Tax Officer, Ward 2(4), Siwan to ensure that the refund admissible to the petitioner for the period in question together with admissible interest reaches the account of the petitioner, the detail of which is present at Annexure P/5 and also reproduced hereinabove, within a period of six weeks from today.

The writ petition is allowed with the directions above.

(Jyoti Saran, J)

(Partha Sarthy, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.08.2019
Transmission Date	NA