IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9841 of 2018

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Alkem Laboratories Limited, a Limited Company incorporated under the Companies Act, 1956, having its office at Exhibition Road, Patna G.P.O., P.S. Gandhi Maidan in the town and District of Patna through its Regional Director, Ashok Kumar, Son of Lalan Kumar Singh aged about 55, Resident of F-145, P.C. Colony, Kankarbagh, Patna- 800020 PO & PS- Kankarbagh, District- Patna.

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax-1, Patna, 2nd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Additional/Joint Commissioner of Income Tax, Range-1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
3. The Deputy/Assistant Commissioner of Income Tax, Circle-1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 10112 of 2018

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Alkem Laboratories Limited, a Limited Company incorporated under the Companies Act, 1956, having its office at Exhibition Road, Patna, G.P.O., P.S. Gandhi Maidan in the town and District of Patna through its Regional Director, Ashok Kumar son of Lalan Kumar Singh resident of F - 145, P.C. Colony, Kankarbagh, Patna - 800020 PO & PS - Kankarbagh, District - Patna.

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax 1, Patna, 2nd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Additional/Joint Commissioner of Income Tax, Range - 1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
3. The Deputy/Assistant Commissioner of Income Tax, Circle - 1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 11032 of 2018

==

Alkem Laboratories Limited, a Limited Company incorporated under the Companies Act, 1956, having its office at Exhibition Road, Patna, G.P.O., P.S. Gandhi Maidan in the Town and District of Patna through its Regional Director, Ashok Kumar, son of Lalan Kumar Singh, aged about 55, resident of F- 145, P.C. Colony, Kankarbagh, Patna- 800020 PO & PS- Kankarbagh, District Patna.

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax 1, Patna, 2nd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Additional/ Joint Commissioner of Income Tax, Range- 1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna. null
3. The Deputy/ Assistant Commissioner of Income Tax, Circle- 1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.

... ... Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 9841 of 2018)
For the Petitioner/s : Mr.Ajay Kumar Rastogi, Adv.
For the Respondent/s : Mr.Archana Sinha @ Archana Shahi, Adv.
(In Civil Writ Jurisdiction Case No. 10112 of 2018)
For the Petitioner/s : Mr.Ajay Kumar Rastogi, Adv.
For the Respondent/s : Mr.Archana Sinha @ Archana Shahi, Adv.
(In Civil Writ Jurisdiction Case No. 11032 of 2018)
For the Petitioner/s : Mr.Ajay Kumar Rastogi, Adv.
For the Respondent/s : Mr.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 : 08-01-2019

Heard Mr. Ajay Kumar Rastogi, learned counsel for the petitioners in the three writ petitions and Ms. Archana Sinha for the Department.

These writ petitions relatable to different assessment years, questions the very initiation of proceedings in purported exercise of powers vested under Section 148 of the Income Tax Act,1961 (hereinafter referred to as ‘the Act’).

Mr. Rastogi, very fairly informs that these writ petitions were filed at the stage of initiation of proceedings under Section 148 of ‘the Act’ but during the pendency of these writ petitions, final orders have been passed on the proceedings so initiated, for the assessment years in question. He though endeavours to submit that the exercise of powers by the statutory authority under Section 148 of the Income Tax Act was without satisfying the pre-requisites to such exercise and thus even if final orders have been passed and if the foundation is lacking, it becomes unsustainable but Ms. Sinha, learned counsel for the Department submits that these issues can well be raised by the assessee before the appellate authority and since final orders have already been passed for the respective assessment years, this Court may not grant indulgence to the prayer made.

Having heard learned counsel for the parties and considering that final orders have been passed in the proceedings initiated under Section 148 of 'the Act' in the respective cases, while permitting the assessee- petitioner to assail those orders before the appropriate forum through statutory appeals so available under 'the Act', we dispose of the three writ petitions together with the interlocutory applications so filed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Bibhash/Ranveer

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2019
Transmission Date	NA