IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23096 of 2019

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Bihar Police Building Construction Corporation Pvt. Ltd. Through its Managing Director of Mr Sunil Kumar, 5 B.M.P Campus, P.O. Vetenary College, P.S.- Vetenary College Dist.- Patna, Bihar 800001.

... ... Petitioner/s

Versus

1. Principal Chief Commissioner of Income Tax, C.R. Building, Bir Chand Patel Path Patna. 800001.
2. Commissioner of Income Tax, C.R. Building, Bir Chand Patel Path Patna. 800001.
3. Joint Commissioner of Income Tax, LokNayak Bhawan, Dakbanglow Road, Patna 800001.
4. Deputy Commissioner of Income Tax LokNayak Bhawan, Dakbanglow Road, Patna 800001.
5. Assistant Commissioner of Income Tax LokNayak Bhawan, Dakbanglow Road, Patna 800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prakash Sahay, Advocate
For the Respondent/s	:	Mrs. Archana Sinha @ Archana Shahi, Sr. SC
		Mr. Sanjeev Kumar, Sr. SC
		Mr. Alok Kumar, Advocate

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-12-2019 Petitioner has prayed for the following reliefs:-

a) To give affect of the Hon’ble Appellate Tribunal order Annexure-4 to the petition and the Appellate order marked as Annexure-3 to the petition.

b) To refund Rs. Sixty four lacks recovered from the petitioner’s Bank Account and excess tax paid in the form of TDS stands to total amount is Rs.89,00,000. And the same is required to be refunded with interest."

We notice that the Assessing Officer passed his impugned order dated 26th October, 2018, making adjustments of previous demands, pursuant to the directions issued by the ITAT/other authorities in respect of the proceedings initiated by the parties.

Learned counsel for the petitioner contends that the adjustment of demands for the years 1998-99, 2001-02, 2010-11, 2011-12 is absolutely illegal, whereas, on the other hand, learned counsel appearing for the Department contends that such demands stood raised in the respective years and sum of Rs.64,00,000/- which was sought to be recovered stood adjusted against the assessee by attachment of the Bank account.

Be that as it may, having heard learned counsel for the parties, we are of the considered view, more so, considering the disputed factual matrix, that petitioner has got an equal efficacious remedy by way of filing an appeal under Section 246 of the Income Tax Act, 1961. As such on this short ground alone, without expressing any opinion on the merits of the matter, this writ petition stands disposed of.

At this stage, learned counsel for the petitioner expresses apprehension with regard to issue of limitation which stands annulled by Smt. Archana Sinha@ Archana Shahi, learned counsel for the respondents, who states that limitation shall not come in the way of considering the appeal on merits in accordance with law.

The writ petition stands disposed of with the aforesaid observations.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

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