IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5708 of 2020

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Amrendra Singh @ Amrendra Kumar, Son of Anirudh Singh, Resident of Village Rampur Khajuria, P.S.- Dumariaghat, District- East Champaran at Motihari.

... ... Petitioner/s

Versus

1. The Union of India through the Income Tax Commissioner, Patna.
2. The Income Tax Officer, Motihari.
3. The Branch Manager, Central Bank of India, Kesharia Branch, East Champaran at Motihari.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv.
For the Respondent Nos.1 & 2	:	Mrs. Archana Shahi, Adv.
For the Respondent No.3	:	Mr. Ajay Kumar Sinha, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 27-05-2020 Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for the following relief(s):

> "For issuance of a writ in the nature of certiorari to quash the notice dated 03.03.2020 as contained in ITBA/RCV/S/226(3)- 1/2019 -20/ 1026033885(1) issued under seal and signature of the Income Tax Officer, Motihari addressed to the Branch Manager, Central Bank of India, Kesharia, Devi Gang, East Champaran whereby and whereunder a direction has

been given to pay the due amount of income tax, wealth tax, interest, penalty due from the petitioner to the tune of Rs. 53,32,550/- from any amount due from bank or held by the bank upon the amount of the aforesaid arrear and the petitioner further prays for issuance of a writ in the nature of mandamus commanding and directing of the respondent no. 3 not to hold the cash credit account of the petitioner as in-operative and further to permit the petitioner to operate the cash credit facility maintained by the petitioner with the respondent no. 3 smoothly and without any hindrance and/or the petitioner also prays for issuance of an appropriate writ/order/direction to which the petitioner may be found legally entitled to in the facts and circumstances of the present case."

It is the petitioner's grievance that even though the impugned notice dated 3rd of March, 2020 (Annexure-1) does not direct or indicate the attachment of the cash credit limit account of the petitioner, yet the respondent No.3, namely The Branch Manager, Central Bank of India, Kesharia Branch, East Champaran at Motihari. has stopped granting all facilities with respect to the said account. Also it is argued that, in any event, notice dated 3rd of March, 2020 directing the respondent No.3 Bank to pay to the Revenue an amount of Rs.53,32,550/- with respect to the assessment year '2017-2018' is illegal, inasmuch as no opportunity of hearing was ever afforded to the petitioner prior to the passing of the order.

Mrs. Archana Shahi, appearing for the Revenue, states that petitioner has been evading the process of law and despite issuance of several notices has never bothered to file response or appear before the adjudicatory authority.

Shri Sanjay Kumar, appearing for the petitioner, refutes such a submission unsubstantiated by documentary evidence, further contending that no notice was ever received by the petitioner and, if one opportunity is afforded to establish his bona fides, without any delay, the petitioner shall not only participate, but make available all material/record, enabling the adjudicatory authority to pass an appropriate order in accordance with law. Violation of principles of natural justice, entailing penal and civil consequences has rendered the proceedings to be illegal and void ab initio.

At this stage, Mrs. Archana Shahi states that an opportunity of hearing can be afforded with a direction for expeditious disposal with the petitioner fully cooperating and undertaking to appear before the appropriate authority next week.

Sri Sanjay Kumar, learned counsel for the petitioner, has objection to the same.

As such, we dispose of the present petition on the following mutually agreeable terms:

(a) The impugned notice dated 3rd of March, 2020 issued by respondent No.2, namely, the Income Tax Officer, Motihari, is quashed and set aside.

(b) The petitioner shall make himself available in the office of the respondent No.2 on 4th June, 2020 at 10:30 a.m., when a date shall be fixed, enabling him to respond to the notice which shall be supplied. For filing response, one week time shall be granted. The petitioner undertakes to fully cooperate and positively file his response within the said period.

(c) We clarify that if the petitioner fails to do so, it shall be open for the authority to adjudicate the matter afresh, in accordance with law, on the basis of material already on record.

(d) In the event of the petitioner appearing and furnishing the material within the aforesaid period, the assessing authority shall decide the matter by passing a fresh order in accordance with law. This he can do preferably within a period of two weeks thereafter.

(e) Respondent No.3, namely, the Branch Manager, Central Bank of India is no longer bound by the notice dated 3rd of March, 2020 and, as such, is free to allow the petitioner to operate the bank account in accordance with law.

The petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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