IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7093 of 2020

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Kumar Cement through its Partner Gagendra Kumar, Main Road, Phulwarisharif, P.O. and P.S. Phulwarisharif, Patna 801505

... ... Petitioner/s

Versus

1. Principal Chief Commissioner of Income Tax C.R. Building. Birchand Patel Path Patna 800001
2. Commissioner of Income Tax, C.R. Building, Bir Chand Patel Path Patna. 800001.
3. Assistant Commissioner of Income Tax, Circle 2, Lok Nayak Bhawan, Dakbanglow Road, Patna 800001.
4. Income Tax officer Ward 2(3) Biharsharif, Nalanda 803101

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prakash Sahay, Advocate
For the Respondent/s	:	Mrs. Archana Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-08-2020

Petitioner has prayed for the following relief(s):

"i. To quash the order dated 04.10.2028 annexure-3 to the petition passed u/s 144/147 of Income Tax Act by the respondent no. 4 of Bihar Sharif. Petitioner do not fall under his territorial jurisdiction of the respondent 4 as petitioner is in filing return at Patna. Petitioner regularly filing return at Patna and has no link to Biharsharif.

ii. For that the petitioner has not been served any notice u/s 148 before passing an order u/s 144/147 of the Income Tax Act. The order is in violation of Law of Natural Justice.

iii. For that the petitioner's income and expenditure was considered while passing an order of M/S Arvind Enterprises. Prop Gagendra Kumar, to whom petitioner gave advances against purchase but the Income Tax form do not have any column thus the amount was shown as unsecured loan. While passing an order of M/S Arvind Enterprises, Prop Gagendra Kumar the petitioner's income was clubbed. Thus there are two orders for same amount.

iv. For that to quash the Bank attachment for recovery against annexure 4 to the petition as the order u/s 144/147 is bad in the eye of law."

After the matter was heard, Shri Prakash Sahay, learned counsel for the petitioner, fairly states that the petitioner shall take recourse to statutory remedies by way of filing appeal/revision.

Mrs. Archana Sinha, learned counsel appearing for the Revenue, assures that as and when petitioner takes such recourse to such remedy and also files an application seeking removal of order of attachment of the Bank Account, the said application (for interim order) shall positively be considered and decided by an appropriate authority within a period of thirty days thereafter.

We are not in agreement with the submission made by the learned counsel for the petitioner that the impugned order is *ex facie* illegal and *void ab initio*. The issue of territorial jurisdiction is a question of fact, left to be adjudicated by the appropriate authority.

The writ petition stands disposed of.

Interlocutory Application, if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	22.08.2020
Transmission Date	