IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8852 of 2020

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1. M/s Ravindar Kumar, a partnership firm, formed under Partnership Act, 1932 having office at - Nasriganj, Near B.S. Collage, Digha, Patna -800012 through its partner Ravindra Kumar, age about 47 years, Gender- Male Son of - Baleshwar Rai, Resident of - Nasriganj, Junaidpur, P.O. - Digha and P.s.- Danapur, District- Patna.
2. Ravindra Kumar, Son of - Baleshwar Rai, Resident of - Nasriganj, Junaidpur, P.O.- Digha and P.S.- Danapur, District- Patna.

... ... Petitioner/s

Versus

1. The Principle Chief Commissioner, Income Tax, Central Revenue Building, Vir Chand Patel Path, Patna.
2. The Principal Commissioner - 2, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna.
3. The Joint Commissioner of Income Tax, Range-4, Lok Nayak Bhavan, Dakbanglow, Patna.
4. The Assistant/DY Commissioner of Income Tax, Circle-4, Lok Nayak Bhavan, Dakbanglow, Patna.
5. The Income Tax Officer, Ward-5 (1), Lok Nayak Bhavan, Dakbanglow, Patna.
6. Tax Recovery Officer-2, Lok Nayak Bhavan, Dakbanglow, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Krishna Mohan Mishra
For the Respondent/s	:	Mr. Lalit Kishore, A.G.
		Mr. Vivek Prasad, AC to AG.
		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 : 10-11-2020

Petitioner has prayed for the following relief(s):

> "i. To quash the notice of attachment issued by respondent assessing officer, circle-4, Patna dated 29.01.2019 and direct to release the bank account operating in Punjab National Bank, Danapur Cant

branch, Patna vide account no. 0142002101542219 (Current Account) as no tax is due to be paid by assessee partnership firm rather the income tax is 1liable to be refunded for sum of Rs.61,04,421/- to petitioner no-1.

ii. To quash the notice issued by respondent tax recovery officer-2, Patna which contained in F. No. TRO-2/PAT/2018-19/114 dated 09.07.2019 and also direct the respondent to remove the order of attachment and release the bank account operating (Saving) in State Bank of India, BV College Campus Branch, Patna bearing hank account no. 32225559080 as the said attachment is also illegal and against the provision of the Income Tax Act.

iii. To direct the respondent to release the refund of Rs.61,04.421/ along with interest because the amount of tax paid on account of tax deducted at source which claimed in return of income is more then the tax assessed.

iv. To direct the respondent to make adjustment of amount of Tax paid by way of TDS against assessed or admitted tax and delete the interest charged by respondent under section 234A, 234B, 234C and 220 of income tax act.

v. To issue any other writ/writs, order/orders, direction/directions as your honour deemed fit and proper."

Learned counsel for the petitioner submits that petitioner shall be content if a direction is issued to the officer passing the impugned order dated 29.01.2019 (Annexure- P/1) to consider the petitioner's representation already made and would be substituted with additional facts.

Mrs. Archana Sinha, learned counsel for the respondents states that though the petitioner has an equally alternative efficacious remedy by way of filing an appeal, assailing the original order of assessment, but, however, if he were to appear before the authority passing the impugned order, the said officer would consider the petitioner's representation expeditiously in accordance with law.

As such, the present petition is disposed of on the following mutually agreed terms:

(a) petitioner shall appear before the Assistant Commissioner of Income Tax, Circle-4, Patna, the authority issuing the impugned notice dated 29.01.2019 (Annexure-P/1), on 25th of November, 2020 at 10:30 A.M;

(b) on the said date the petitioner shall furnish additional information in writing;

(c) the authority shall take a decision on the petitioner's request in accordance with law, expeditiously and certainly within a period of four weeks thereafter;

(d) since the Bank Account(s) of the petitioner stands attached way back in the year 2019, this Court is not inclined to pass any interim order staying such action of the respondent authority, but only hope and expect the authority to decide the issue at the earliest;

(e) liberty reserved to the petitioner to assail either the original order of assessment or the order which the authority may pass, including the one impugned herein, before the appropriate authority/Forum, in accordance with law;

(f) all questions are left open.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	