IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16935 of 2014

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The Offsetters (I) Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its office at 69/04, Mukherji House, Dr. T.N. Banerjee Road, Chhajjubagh, Patna, 800001, Bihar through its authorized signatory Santosh Kumar Jain, son of Late Sahu Sumat Prasad Jain, Resident of 203, Shantikunj Apartment, Dr. T.N. Baherjee Road, Chhajju Bagh, Patna- 800001

... ... Petitioner/s

Versus

1. The Union of India, New Delhi represented by the Secretary to the Government of India, Finance Department, New Delhi- 110 001
2. Chairman, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, New Delhi- 110001
3. Commissioner of Income Tax TDS, 6th Floor, Central Revenue Building Annexe, Birchand Patel Path, Patna- 800001
4. Commissioner of Income Tax, Central Revenue Building, Patna
5. Deputy Commissioner of Income Tax, Centralised Processing Cell-TDS, Aaykar Bhawan, Sector- 3, Vaishali, Ghaziabad- 201010 Uttar Pradesh

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D. V. Pathy, 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 ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 23-09-2020 Petitioner has prayed for the following relief:

(i) for a declaration that Section 234E of the Act is ultra vires Articles 14 and 265 of the Constitution of India.

(ii) for a declaration that Section 234E of the Income Tax Act, 1961 (hereinafter called the Act) is ultra vires Entry 82 of the List 1-Union List of the VIIth Schedule of the Constitution of India.

(iii) for a declaration that the Parliament is not competent to enact a law directing mandatory charge of fee for late filing of statement of tax deducted at source contrary to the Constitutional scheme and mandate.

(iv) the orders of the respondent no.5 charging the fee under Section 234E of the Act for the period of 2012-13 and 2013-14 (as contained in Annexure- 1 series) be quashed.

Learned counsel for the petitioner fairly states that with the passage of time, the only surviving grievance pertains to prayer clause (iv), for which petitioner be permitted to agitate the same before an appropriate forum in accordance with law.

Mrs. Archana Sinha, learned counsel for the respondents has no objection to grant of such prayer, clarifying that the issue of limitation shall neither be raised nor come in the way of the adjudication on merits, if the petitioner were to take recourse to such remedies within a period of three months from today.

Statement is accepted and taken on record.

Liberty, as prayed for, is granted.

Petition is disposed of in the above terms.

Interlocutory application, if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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