IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.245 of 2020

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M/s Shree Vishnu Vishal Paper Mills Pvt. Ltd. a Private Limited Company incorporated under the Companies Act, 1956 having its office at Plot No. NS 01, Industrial Growth Centre, Giddha, Arah, Bihar- 802314, through its Account Incharge, Mukesh Kumar Singh, Son of Kameshwar Singh, Male, aged about 33 years, Resident of Bachri, Akhagaon, P.O.- Akhagaon, P.S.- Sandesh, District- Bhojpur- 802161.

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax (Central), Patna, 3rd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Additional/Joint Commissioner of Income Tax, Central Range, Central Revenue Building (Annexe), Beer Chand Patel Path, Patna.
3. The Deputy/Assistant Commissioner of Income Tax, Central Circle-3, 6th Floor, Central Revenue Building (Annexe), Beer Chand Patel Path, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ajay Kumar Rastogi, Adv
For the Respondent/s : Mr.Archana Sinha @ Archana Shahi, Adv

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

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

Date : 07-12-2020

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

> "(i) for issuance of a writ of certiorari or any other appropriate writ quashing the Notice u/s 148 of the Income Tax Act, 1961 ("the Act") dated 29.03.2019 (Annexure-1), for assessment year 2012-13 issued by the Assistant Commissioner of Income Tax, Central Circle-3, Patna (the Respondent No.3 herein and also referred to as the "Assessing Officer" hereinafter) initiating proceedings for reassessment against the Petitioner as being wholly arbitrary, illegal, without jurisdiction as the

> same has been initiated in absence of any finding attributing failure on part of the petitioner in disclosing fully and truly all material facts necessary for assessment and on mere change of opinion.
> (ii) For issuance of an appropriate writ quashing the preliminary order dated 22.11.2019 (Annexure- '2') passed in pursuance of the said Notice by Respondent No.3 whereby the petitioner's objection on the issue of assumption of his jurisdiction has been rejected on the ground that share application money was not examined with due diligence, as being wholly arbitrary, illegal and without jurisdiction.
> (iii) For issuance of an appropriate writ quashing the notice u/s 142(1) dated 22.10.2019 (Annexure-'3') by which the petitioner has been directed to furnish certain details along with connected documents as the same is erroneous and without any basis."

It is submitted on behalf of Senior Counsel of Income tax department that present petition has become infructuous inasmuch as, petitioner had filed present writ petition for quashing the notice under Section 148 of Income Tax Act, 1961, dated 29.03.2019 for assessment year 2012-13 issued by the Assistant Commissioner of Income Tax, Patna, the Assessing Officer. However, during pendency of writ petition, the proceeding initiated stands concluded on 30.12.2019, by passing the final assessment order which is appealable.

The writ petition is disposed of with liberty to petitioner to file appeal against the order dated 30.12.2019 passed under Section 147 of the Income tax Act, before the Appellate Authority and if any such appeal is filed before the appellate authority within 6 weeks, the appellate authority shall condone the delay in filing appeal as matter remained pending before this Court and shall decide the appeal on merit within 12 weeks from the date of filing of such appeal.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA