IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 9660 of 2020

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Satyendra Kumar aged about 45 years, Son of Sri Hirdya Nand Singh, R/o Patut, P S Rani Talab, District- Patna.

.... Petitioner/s

-Versus-

1. Principal Chief Commissioner of Income Tax, C.R. Building, Bir Chand Patel Patna- 800001.

2. Commissioner of Income Tax, C.R. Building, Bir Chand Patel Path, Patna- 800001.

3. Joint Commissioner of Income Tax, Lok Nayak Bhawan, Dakbanglow Road, Patna- 800001.

4. Deputy Commissioner of Income Tax, Lok Nayak Bhawan, Dakbanglow Road, Patna- 800001.

5. Assistant Commissioner of Income Tax, Lok Nayak Bhawan, Dakbanglow Road, Patna- 800001.

6. Income Tax Officer, C P C ,Bangaluru ,Karnatka ,560500

7. Income Tax Officer, Ward 6(2) Lok Nayak Bhawan, Patna.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Uday Prasad Singh, Advocate Mr. Jagannath Prasad, 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)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 26-05-2021

Learned counsel for the parties desire the matter be taken up today.

Petitioner has prayed for the following relief(s):

> That the present application is for issuance of an appropriate writ/writs, order/orders, direction/ directions. Commanding the respondents to issue refund amounting Rs 1,55,395 (One Lacs Fifty Five Three Hundred Ninty Five) for the period 2009-10 ,Assessment Year 2010-11 and. amounting Rs 92,131 (Ninety Two Thousand One Hundred Thirty One) which has been issued in the year 2013 vide reference no CMPS4366132 dt 27/12/2013 but not cashed or which the respondent Income Tax Officer could not upgrade the same . Thus direction may be given to refund the due amount of the petitioner with interest and petitioner shall also be compensated for the loss petitioner has suffered .

In the counter affidavit filed by the respondents, petitioner's claim is not disputed. In fact, in Paragraphs No. 3 to 6, reproduced hereinunder, reasons for non-approval of the online release of the amount to be refunded to the petitioner stands explained:-

3. That the brief facts of the case is this that the assessee has made grievances to non- receipt of refund for AY 2010-11 and 2012-13 of Rs 1,55,395 and Rs 92,131/- respectively claimed vide filing of online ITR on 17.05.2011 for AY 2010-11 as well as offline ITR on 12.09.2012 for AY 2012-13 respectively.

4. That after going through the system [illegible], it is gathered that ITR for AY 2010-11 was processed u/s 143 (1) of the Income Tax Act, 1961 dated 31.03.2012 by CPC, Bangalore and refund was determined to be Rs. 18,[illegible]/- instead of claim of refund of Rs 1,55,395/- against allowing of TDS of Rs 14055/- (which was available as per 26 AS) against total TDS claim of Rs. 161429/-. This happened only due to mismatch of TDS claim of Rs 146474/- upto the time of processing the same.

It is also evidenced as per 26AS attached with his writ petition that the claim of TDS of Rs 146474/- was booked on 17.08.2015 which is after the processing date i.e. 31.03.2012.

5. That the refund issue relates to AY 2012-13, it is gathered that the refund of Rs 101340/- was determined after processing of ITR u/s 143 (1) dated 12.12.2013 and the same was issued to the petitioner but it seems that the same was not en cashed by the assessee.

6. That the case of the assessee relevant to AY 2010-11 has been rectified u/s 154 of the IT Act, 1961 on 02.02.2021 and determined to Rs 236580/- which includes interest thereon of Rs 81078/- and has been sent to the Range Head for approval and in the case relevant to AY 2012-13, the refund is again initiated vide request id 4000657234 in system on 02.02.2021 and proposal for unblocking of refund of Rs 101340/- has been sent to O/o Pr. CIT-01, Patna through proper channel for kind online approval vide this office letter no. 530 dated 03.02.2021.

Mrs. Archana Sinha, learned counsel for the respondents states that in view of the attending circumstances, resulting out of the current second wave of Pandemic Covid-19, the office cannot process the claims, inasmuch as, the officers and officials are infected with the virus and it would take some time for the application to be processed.

Resultantly, as mutually prayed for, we dispose of the present petition with a direction to the respondents to positively complete the process for release of the amount due and payable to the petitioner, as admitted in the counter affidavit, contents whereof is reproduced supra. Needful be positively done within a period of three months from today.

Liberty reserved to the petitioner to revive the petition, if the need so arises subsequently.

Petition stands disposed of with the aforesaid directions/liberty.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	27.05.2021
Transmission Date	