IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11551 of 2021

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Chandrasekhar Dewalla @ D. Chandrashekhar Son of Late Dewalla Venkata Vishwanatham, Resident of 302, Om Nilay Apartment, West Boring Canal Road, Khaitan Lane, P.S. S.K. Puri, Patna 800001 at Present Residing at Flat No. D/701 Sai, Sakshaat Sector-6, Kharghar Navi Mimbai, Kharghar, District-Raigarh, P.S. Kharghar, Maharashtra 410210.

... ... Petitioner/s

Versus

1. Central Board of Direct Taxes through its Chairman having its Office at North Block, New Delhi
2. Centralized Processing Center, Income Tax Department, Bangalore.
3. Commissioner of Income Tax, Patna.
4. Dy. Commissioner of Income Tax, Circle-1, Patna.
5. Assistant Commissioner of Income Tax, Circle-(1), Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.D.V.Pathy, Advocate
For the Respondent/s	:	Mr.Anshuman Singh, Sr. CGC
		Mr. 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)

(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 : 26-08-2021

Petitioner has prayed for the following relief(s):

i) the respondent no.4 be directed to give credit to the deduction of tax at source on the basis of certificate issued by the employer in Form No.16 and also annual tax statement in Form 26AS posted on the web site of the Income Tax Department against the demand of tax for the assessment year 2009 – 10.

ii) the respondent no.4 be directed to refund a sum of ₹ 3,29,450 recovered/adjusted with the refunds for the assessment years 2014 – 15 to 2017 – 18 against the demand of Income Tax for the assessment year 2009 – 10 amounting to ₹ 3,29,445 raised pursuant to an order of assessment/intimation said to be passed by the respondent no.1 without consideration of the certificate of deduction of tax at source issued by the employer in Form No.16 and also annual tax statement in Form 26AS posted on the web site of the Income Tax Department that too without making available/serving a copy thereof.

iii) the respondent no. 4 be directed to dispose of the representations/application for adjustment of Income Tax deducted at source for the assessment year 2009 – 10 expeditiously.

iv) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

We appreciate the efforts put in by Mrs. Archana

Sinha, learned counsel in pursuing the matter with the authorities making them understand the importance and significance of self-correction, for Institutions have prestige and not egos.

In para Nos.3 and 5 of the counter affidavit, it stands averred that the Department has taken remedial measures and also, after rectification of the impugned order, not only passed a fresh order dated 19th of July, 2021 but also initiated process for refund of the excess amount due and payable to the petitioner.

Para Nos.3 and 5 of the counter affidavit are extracted as under:

> "3. That the brief fact of the case is this that the petitioner filed his ITR for assessment year 2009-10 on 05.06.2009 at a total income of Rs. 10,75, 650 and the same was processed under section 143(1) of the IT Act on 16.03.2011 raising a demand of Rs. 329450/- due to mismatch of TDS. Rectification order under section 154 of the IT Act was passed on 7.2.2018 giving the credit of matched TDS as well as collection made against demand for assessment year 2009-10 from the refund of various assessment years. On the perusal of the departmental computer system it is found that inadvertently the refund raised was adjusted against modification of interest under section 234B of IT act and this discrepancy has been rectified by passing an order under section 154 of IT Act on 19.07.2021 and accordingly a refund of Rs. 3,29,990/-

(including payment of interest under section 244A IT Act of Rs. 88,026/-) has been issued to the petitioner."

5. That in reply of paragraph number 2, 9 to 23 of the writ petition it is stated that credit of TDS has already been given to the petitioner vide rectification order dated 07.02.2018 and a refund of Rs. 329990/- has been issued vide a separate rectification order dated 19.07.2021."

Shri D.V. Pathy, learned counsel for the petitioner, while thanking Mrs. Archana Sinha, learned counsel states that the issue of interest be left open for the petitioner to approach the authorities, if the need so arises.

Prayer allowed and accepted.

In view of the aforesaid intervening developments, the present petition stands disposed of with the liberty, as prayed for, by Shri D.V. Pathy.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.09.2021
Transmission Date	