IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.498 of 2021

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Hari Kishore Prasad Singh, son of Sri Rajeshwar Prasad Singh permanent resident of Atrar, PO and PS Atrar, Muzaffarpur at present residing at Sinha Sadan, Rajju Shah Lane, Aamgola, PO and PS Mithanpura, District Muzaffarpur.

... ... Petitioner/s

Versus

1. Central Board of Direct Taxes, through its secretary having its office at North Block, New Delhi.
2. Commissioner Income Tax, having its office at Bela Road, Muzaffarpur.
3. Income Tax Officer Ward 1 (1), Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.D.V.Pathy, Advocate
For the Respondent/s	:	Mr. Dr. K.N. Singh, ASG
		Mr.Tuhin Shankar, Advocate
		Mrs. Archana Sinha, Advocate
		Mr. Rishi Raj Sinha, Advocate
		Ms. Shilpi Keshri, 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 circular issued by the respondent no.1 directing assessing officers to grant ad interim stay only on mandatory deposit of 20% of the disputed demand of tax be quashed.
>
> ii) the notice of demand dated 28.12.2019 (as contained in Annexure-2 series) issued by

the respondent no.2 in pursuance of an order of assessment for the assessment year 2017-18 be stayed.

iii) the notice dated 14.02.2020 (as contained in Annexure-4 series) issued by the respondent no.2 attaching the bank accounts of the petitioner maintained with Central Bank of India, Nirial branch, Madhubani and Bank of Baroda, Tilak Maidan road Muzaffarpur for recovery the amount of tax in dispute during the pendency of the first appeal to be quashed.

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

Shri D.V. Pathy, learned counsel for the petitioner, states that at this point in time, the petitioner is not required to deposit any amount for there is no statutory condition of predeposit for the appeal to be heard by Commissioner of Income Tax (Appeals).

The issue, as we understand, which arises for consideration is as to whether during the pendency of the appeal proceedings against the petitioner for enforcing the demand in terms of the impugned order can be initiated and pursued or not.

Well, in our considered view, there is no legal impediment in doing so. However, if the petitioner wants such process to be deferred/installed during the pendency of the appeal, it shall be open for him to seek appropriate remedy in accordance with law, which process, as and when initiated, we are hopeful, shall be considered and decided expeditiously in accordance with law.

In any event, we are hopeful that the appellate authority shall also hear and decide the petitioner's appeal on expeditious basis.

At this stage, learned Additional Solicitor General points out that the appeal is being heard by way of a procedure termed as faceless appeal and no personal hearing is mandated under law.

Petition is disposed of in the aforesaid terms.

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	