IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10579 of 2020

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Satyendra Kumar, Son of Ram Swaroop Prasad, Resident of -202 Hardi E-States Apartment, Bank Road, P.O.- Patna G.P.O., P.S.- New Police Lane, District- Patna, PIN- 800001.

... ... Petitioner/s

Versus

1. The Principle Chief Commissioner, Income Tax, Central Revenue Building, Vir Chand Patel Path, Patna.
2. The Principal Commissioner/ Commissioner-2, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna.
3. The Assistant Commissioner of Income Tax Circle-6, Lok Nayak Bhavan, Dakbanglow, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Mohan Mishra, Advocate
		Mr. Prasoon Kumar, Advocate
For the Respondent/s	:	Mrs. Archana Sinha, Advocate, Sr. SC
		Mr. Alok Kumar, Advocate, Jr. SC
		Mr. Sanjeev Kumar, Advocate, Jr. SC

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJAN GUPTA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-10-2021

Petitioner has prayed for the following relief(s):

"i. To quash the order of attachment passed under section 226 (3) of the income tax act dated 25.02.2020 whereby and where under the respondent income tax officer without considering the stay petition filed by the petitioner for stay of demand, attached bank account which operates in Punjab national bank bearing account no. 2910002100031272, 2910000100218545 for the assessment year 20l7-18 relevant to Financial year 2016-17.

ii. To hold and declare that the order passed by respondent Assessing Office is arbitrary and illegal in view of the fact that proper opportunity was not provided to the petitioner rather ex-party assessment order was passed without considering the evidence as such the order violates the principal of natural justice.

iii. To issue any other writ/writs, order/orders, direction/directions as your honour deemed fit and proper."

Finding the Court not to be in favour of the submissions made across the Bar, Shri Krishna Mohan Mishra, learned counsel appearing on behalf of the petitioner states that petitioner shall be content if a direction is issued to the Appellate Authority to consider and decide the petition on merits, expeditiously, in accordance with law.

Mrs. Archana Sinha, learned counsel for the Revenue states that if the petitioner shall fully cooperate, the Appellate Authority shall decide the appeal on merits within a period of three months.

Statement taken on record.

Having heard learned counsel for the parties as also perused the record made available, we dispose of the present petition in the following mutually agreeable terms:-

(a) We accept the statement of the petitioner that ten per cent of the total amount, being condition prerequisite for hearing of the appeal, already stands deposited. If that were so, the appeal shall be decided on merits. However, if the amount is not deposited for whatever reason(s), same shall be done before the next date;

(b) This deposit shall be without prejudice to the respective rights and contention of the parties and subject to the order passed by the Appellate Authority. However, if it is ultimately found that the petitioner’s deposit is in excess, the same shall be refunded within two months from the date of passing of the order;

(c) We also direct for de-freezing/de-attaching of the bank account(s) of the writ-petitioner, if attached in reference to the proceedings, subject matter of present petition. This shall be done immediately.

(d) Petitioner undertakes to appear before the Appellate Authority on 15th of November, 2021 at 10:30 A.M., if possible through digital mode;

(e) The Appellate Authority shall decide the appeal on merits after complying with the principles of natural justice;

(f) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(g) During pendency of the appeal, no coercive steps shall be taken against the petitioner;

(h) The Appellate Authority shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

(i) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(j) The Appellate Authority shall decide the appeal on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

(k) The Appellate Authority shall pass a speaking order assigning reasons, copy whereof shall be supplied to the parties;

(l) Liberty reserved to the petitioner to challenge the order, if required and desired;

(m) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(n) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(o) We have not expressed any opinion on merits and all issues are left open;

(p) The proceedings shall be conducted through virtual/physical mode, as the authority may direct;

The instant petition sands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(Rajan Gupta, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	22.10.2021
Transmission Date	