IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10839 of 2020

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Shravan Kumar, Son of Late Thakur Umeshwar Prasad Singh resident of 212, Triveni Apartment, East Boring Canal Road, P.O. GPO, P.S. Buddha colony District Patna.

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax, I, Patna having its office at Central Revenue Building, Bir Chand Patel Marg, Patna.
2. Assistant Commissioner of Income Tax, Centralized Processing Centre (CPC), Bangalore.
3. The Income Tax Officer Ward - 1(1), Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate

Mr. Dinesh Maharaj, Advocate

For the Respondent/s : Ms. Archana Sinha @ Archana Shahi, Advocate

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

Date : 18-08-2021

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

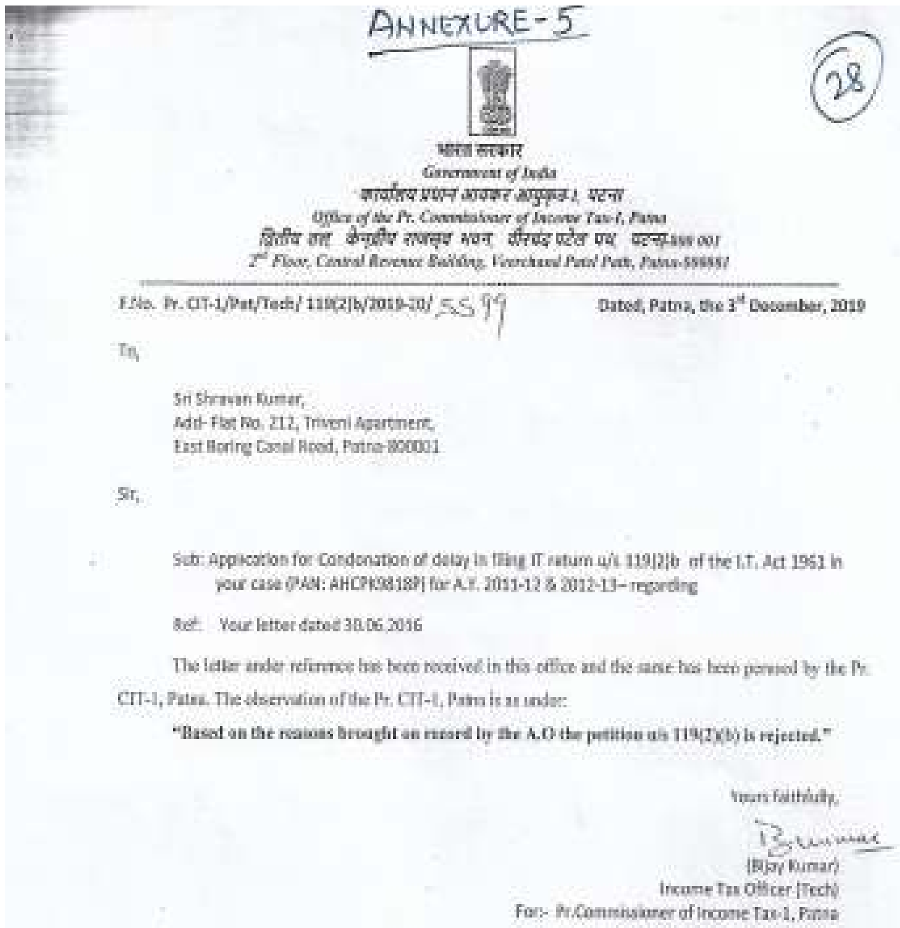
i) The order dated 26.06.2015 passed by the respondent no. 2 (as contained in Annexure -2) enhancing the income from profession from □ 2,90,986 to □ 371,528 without grant of adequate opportunity of being heard is wholly illegal and without jurisdiction?

ii) The order dated 03.12.2019 (as contained in Annexure -5) passed by the respondent no.1rejecting the application for condonation of delay in seeking belated refunds under section 119 (2) (b) of the Income Tax Act, 1961 be quashed.

iii) The respondent no.3be directed to refund the amount of Income Tax paid in excess and clearly discernible from Form 26 AS on the website of the Income Tax Department.

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

From the reading of the order dated 3rd December, 2019 passed by Principal Commissioner of Income Tax-1, Patna, Annexure-5, which in toto extracted hereinunder, it appears that the Authorised Officer has not applied his independent mind in forming the opinion while rejecting the petitioner's application in exercise of his power under Section 119(2)(b) of the Income Tax Act.



ANNEXURE-5

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भारत सरकार
Government of India
कार्यालय प्रधान आयकर आयुक्त-1, पटना
Office of the Pr. Commissioner of Income Tax-1, Patna
द्वितीय तल, केन्द्रीय राजस्व भवन, वीरचंद पटेल पथ, पटना-800 001
2nd Floor, Central Revenue Building, Veerchand Patel Path, Patna-800001

F.No. Pr. CIT-1/Pat/Tech/ 119(2)b/2019-20/ 5599   Dated, Patna, the 3rd December, 2019

To,

Sri Shravan Kumar,
Add- Flat No. 212, Triveni Apartment,
East Boring Canal Road, Patna-800001

Sir,

Sub: Application for Condonation of delay in filing IT return u/s 119(2)b of the I.T. Act 1961 in your case (PAN: AHCPK9818P) for A.Y. 2011-12 & 2012-13– regarding

Ref: Your letter dated 30.06.2016

The letter under reference has been received in this office and the same has been perused by the Pr. CIT-1, Patna. The observation of the Pr. CIT-1, Patna is as under:

"Based on the reasons brought on record by the A.O the petition u/s 119(2)(b) is rejected."

Yours faithfully,

(Bijay Kumar)
Income Tax Officer (Tech)
For:- Pr.Commissioner of Income Tax-1, Patna

As such, on this short ground alone, leaving all questions open, the impugned order dated 3rd December, 2019 passed by Principal Commissioner of Income Tax-1, Patna, Annexure-5, is set aside with a direction to the appropriate authority to pass a fresh order in accordance with law.

Needless to add the Officer must apply his mind and form an independent opinion while considering the petitioner's application.

Petitioner shall fully cooperate in such proceedings and not take unnecessary adjournment and place materials, if so required and desired.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	24.08.2021
Transmission Date	