IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14824 of 2021

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Gyan Bharti Shiksha and Prashikshan Sansthan, a society registered under societies Act, 1861 office at - Jagdish Lok Apartment 1st Floor, West Boring Canal Road, Patna - 800001, through its secretary Ashok Kumar Singh, aged about 51 years, Gender - Male, son of - Chandrika Singh, Resident of - Flat no. 201 Pratap Palace Apartment, Krishinagar, A.G. colony, Near Shiv Mandir, Ward No. 5, Phulwari Patna, 800025.

... ... Petitioner/s

Versus

1. The Principal Chief Commissioner Income Tax, Bihar and Jharkhand, Central Revenue Building, Veerchand Patel Patha, Patna.
2. The Commissioner of Income Tax, Exemption, Central Revenue Building Veerchand Patel Patha, Patna.
3. Additional / Joint/Deputy/Assistant Commissioner/Income Tax Officer, National e-Assessment Center, Delhi.

... ... 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.

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

Date : 02-09-2021

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

"i. To quash and set aside the assessment order as well as demand notice passed by respondent no. 3 dated 04.03.2021 whereby and whereunder the said respondent has computed income of Rs. 8,63,70,658/- and has created demand of Rs. 4,20,47,780/- even after accepting the return of income which filed by petitioner. The assessment of income and creation of demand thereafter, arbitrary, unreasonable and amount to harassment.

ii. To hold and declare that the trust is registered under section 12AA and also under Section 80G of the Income Tax Act, as such, the grant in aids or contribution received by the society is exempted from levy of tax under section 11 of the Income Tax Act.

iii. To further direct the respondent to not to make recovery as the demand were created erroneously and without given effect of 80G and 12AA certificate.

iv. To pass any writ/writ, order/orders, direction/directions as deemed fit and proper."

We find the action of the respondents-Revenue in issuing the notice of demand to be absolutely without non-application of mind, *de hors* of the legal provision.

There is a limit to which an assessee can be subjected to harassment and pushed into litigation. Significantly, as against the declared income of Rs. 1,86,423/-, which stood accepted vide assessment order dated 04.03.2021 (Annexure-P1, page 10), the Revenue issued notice of demand computing the income to be of Rs. 4,20,47,780/-. The demand notice is issued not by a low lying clerk but by an officer above the level of Additional Commissioner of Income Tax, National e-Assessment Centre. Is this how the department is supposed to function? This mistake is not bonafide.

As such, we quash the demand notice dated 04.03.2021, Annexure-1, in relation to the assessment year 2018-19 with cost quantified at Rs. 10,000/- to be recovered from the officer concerned who had processed the case and issued such notice of demand. The cost be paid to the petitioner within a period of two weeks from today.

Liberty reserved to the Revenue to generate a fresh notice of demand in terms of the assessment carried out vide order dated 04.03.2021 already passed.

The petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	10.09.2021
Transmission Date	