# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No. 3562 of 2021**

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Dinesh Kumar, aged about 45 years, Male, s/o Sri Ram Pravesh Keshri, r/o PNB Bank VIII, Shahpur Danapur cum Khagaul, Patna Bihar, 801502.

... ... Petitioner/s

Versus

1.The Principal Chief Commissioner, Income Tax, Central Revenue Building, Bir Chand Patel Path, Patna.
2.The Principal Commissioner Income Tax-2, Central Revenue Building, Bir Chand Patel Path, Patna, The Superintendent of Siwan.
3.The Income Tax Officer Ward 4(2) Patna.

... ... Respondent/s

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**(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)**

**Appearance :**
For the Petitioner/s : Mr. Arvind Kumar, Adv
For the Respondent/s : Mrs. Archana Sinha, Adv

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE S. KUMAR**

ORAL JUDGMENT
**(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

**Date: 28.04.2021**

Petitioner has filed this writ petition for refund of Rs. 1,42,400/- with interest for the Assessment Year-2014-15. Petitioner had filed his income tax return for assessment year 2014-15 electronically on 11.10.2014 in which he had claimed refund of Rs. 1,42,400/- through his advocate and his advocate received intimation that the return filed was defective through email on 29.06.2015, however, same was not communicated to the petitioner and the time for removing defects lapsed and his return was invalidated on 29.02.2016.

The Assessing Authority issued notice under Section

139(9) of the Income tax Act to the petitioner to rectify the defects as pointed out by CPC by 28.05.2016 and same was communicated through e-mail to his advocate but same was not communicated to the petitioner, as such, defects could not be removed.

Petitioner thereafter tried to remove the defects by engaging another counsel by filing balance sheet after the prescribed period on 28.05.2016 but same was declared invalid. Petitioner thereafter filed a petition before the Principal Commissioner of Income Tax-2 on 02.02.2017 for condoning the delay in filing the income tax return under section 139(9) of the Income Tax Act and again filed representation on 14.09.2017 to permit him to file return of income for assessment year 2014-15 under section 139(9) of the Income Tax Act, however, same was rejected by order dated 23.10.2017 communicated to petitioner by respondent no. 3 on the ground that his case does not fall under the conditions specified u/s 119(2) (b) of the Income Tax Act, as return of income for above assessment year has already been rejected.

Petitioner has again filed a representation for getting permission for filing return under section 139(9) for assessment year 2014-15, however, said representation has not been decided by respondent no. 2 as yet.

The writ petition is disposed of with a direction to respondent no. 2 to decide the representation dated 14.12.2020 filed by petitioner which has been filed for getting permission for filing return under section 139(9) for the assessment year 2014-15 within three months from the date of receipt/production of a copy of the order passed by this Court. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner.

**(Sanjay Karol, CJ)**

**(S. Kumar, J)**

ranjan/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 28.04.2021 |
| **Transmission Date** | NA |