IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18238 of 2021

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Rameshwar Prasad Yadav, Son of Late Jay Pal Yadav, Resident of Musshalahaour Bari Road, Opposite J.N. Madarsah, Post Office - Mahandrue, Police Station - Sultan Ganj, Sampatchak, District - Patna proprietor of J.B. Yadav and Sons situated at Bari Path, Musallahpur, Patna.

... ... Petitioner/s

Versus

1. The Union of India, through Secretary Government of India, New Delhi.
2. The Principal Director General of Income Tax, (System) New Delhi.
3. The Principle Chief Commissioner, Income Tax, Bihar and Jharkhand Central Revenue Building, Virchand Patel Path, Patna.
4. The Principal Commissioner/Commissioner-1, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna.
5. The Joint Commissioner of Income Tax, Range-4, Lok Nayak Bhavan, Dakbanglow, Patna.
6. The Assistant / Deputy Commissioner of Income Tax, Circle-4, Lok Nayak Bhavan, Dakbanglow, Patna.
7. The Income Tax Officer, Ward 5 (1), 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	:	Dr. K N Singh, ASG Mrs. Archana Sinha, Sr. S.C. Mr. Sanjeev Kumar, Jr. S.C. Mr. Alok Kumar, Jr. S.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE A. M. BADAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-10-2021

Heard learned counsel for the parties.

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

i. To issue appropriate writ directing the respondent Principal Commissioner of Income Tax- 1, Patna to issue final order/certificate in form no. 5 under section 5 of the Vivad Se Viswas Scheme Act, 2020 (herein after referred to as VSVS Act) as the respondent assessing officer has already collected whole of the disputed demand of Rs.2,35,951 on 17.07.2008 by making forceful recovery during pendency of appeal.

ii. To issue appropriate writ directing the respondent to issue copy of challan or supply the details such as challan number, date of recovery, date of deposit of recovered amount and date of clearance of the amount of tax of Rs. 2,35,951/- which collected by the assessing officer by making attachment of bank account but the information regarding such recovery was not supplied nor copy of challan were forwarded to the petitioner.

iii. To direct the respondent to issue final order of settlement in form no.5 of the VSVS Scheme and also refund Rs.57,967/- (2,35,951-Rs. 177,984) as the respondent assessing officer had collected excess amount over the amount payable under VIVS Act and also as per the certificate issued by the Principal Commissioner of Income Tax on 27.08.2021.

(iv) To further direct the respondent to not to charge interest at of 10 percent on due amount of Rs.1,77,984/- under VSVS Act, 2020 because the assessing officer has already collected excess amount over the amount payable under the scheme.

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

The issue raised is only with regard to inaction on the part of the authorities in passing the final order.

In our considered view, the issue can be best resolved with the petitioner appearing before the Respondent No. 4 namely the Principal Commissioner/Commissioner-1, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna placing on record entire materials in support of his contentions.

As such, we dispose of the present petition in the following terms:-

(a) Petitioner shall appear before the Respondent No. 4, namely the Principal Commissioner/Commissioner-1, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna, on 22nd of November, 2021 at 10:30 A.M., placing on record entire materials in support of his contentions;

(b). Respondent No. 4, namely the Principal Commissioner/Commissioner-1 Income Tax, Central Revenue Building, Veerchand Patel Path, Patna, or the officer authorized under the statute, shall pass an appropriate order, in accordance with law, positively within a period of eight weeks thereafter, after complying with the principles of natural justice;

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

(d) The appropriate Authority shall pass an order only after affording adequate opportunity to all concerned, including the writ petitioner;

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

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

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

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

(i) 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;

(j) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

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

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)

(A. M. Badar, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	03.11.2021
Transmission Date	