IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20029 of 2021

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Anil Kumar Sinha, Son of Ramnath Saxena, residing at Bimla Deep Ramnath Smriti, Near Kali Asthan, Shivpur, Patna, Bihar- 800006.

... ... Petitioner/s

Versus

1. Commissioner of Income Tax 1 having its office at Central Revenue Building, Bir Chand Patel Marg, Patna.
2. Asst. Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.
3. Income Tax Officer, Ward 4(1), Patna

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy, Advocate
For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Sr. Standing Counsel
Mr. Sanjeev Kumar, Jr. Standing Counsel

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

Date : 07-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

> "i) the notice dated 28.02.2020 (as contained in Annexure-2) issued under Section 148 of the Income Tax Act, 1961, in view of substitution of Section 147, 148, 149 and 151 of the Income Tax Act, 1961 by the Finance Act 2021 having been issued on the basis of an non-existent provision of the Income Tax Act, 1961 is wholly illegal and without jurisdiction?
> ii) The order dated 25.09.2021 (as contained in Annexure-5 series) passed by the respondent no.2 for the Assessment Year 2017-18 ex parte to the best of his judgment de hors provisions of section 144B and Section 148 A of the Income Tax Act, 1961 that too without grant of opportunity of being heard be quashed.

> iii) the notice of demand dated (as contained in Annexure-5 series) issued by the respondent no.2 for Assessment Year 2017-18 be stayed.
>
> iv) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

Sri D.V. Pathy, learned counsel for the petitioner states that petitioner could not appear before the authority in view of the adversities arising out of the current Pandemic Covid-19.

We notice that notices were issued to the assessee during the period of current Pandemic Covid-19. Being satisfied of the hardship expressed by the petitioner in not responding to the notices, we are inclined to quash and set aside the impugned order dated 25th of September 2021, which undisputedly is ex parte in nature. As such, we dispose of the present petition in the following terms:-

(a) We quash and set aside the impugned order dated 25.09.2021 passed by respondent no. 2, namely, Asst. Commissioner of Income Tax, National Faceless Assessment Centre, Delhi (Annexure 5 series).

(b) Petitioner shall appear before the Assessing Officer i.e. Asst. Commissioner of Income Tax, National Faceless Assessment Centre, Delhi (Respondent no. 2) (Annexure 5 series) or any other appropriate authority authorized to carry out the assessment.

(c) Petitioner shall appear before the Assessing Authority on 27th of December 2021.

(d) Petitioner shall respond to the notices within a period of two weeks thereafter and the officer, after affording opportunity of hearing shall pass a reasoned and speaking order within a period of two months thereafter.

(c) Petitioner undertakes to fully cooperate and not take any unnecessary adjournment.

(d) Also, should the need so arises, it would be open for the petitioner to take recourse of such remedies as are otherwise available in accordance with law, including filing of appeal before the appropriate forum.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA