IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1009 of 2022

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Uttar Bihar Gramin Bank having its Head Office at Sharma Complex, Kalambagh Chowk, Muzaffarpur, P.S.-Kazi Mohammadpur, in the town and District of Muzaffarpur through its General Manager namely Mahendra Kumar, aged about 55 years, male, Son of Pershu Ram, Premanent resident of A-26, Flat No.208, Aakriti Greens, P.O.-Salaiya, P.S.-Salaiya, District-Bhopal, Madhya Pradesh-462 026, Presently residing at Flat No.503, Tarkeshwar Sati Apartment, Chakkar Maidan, P.O. Muzafarpur, P.S. Kazi Mohammadpur, District-Muzaffarpur (Bihar).

... ... Petitioner/s

Versus

1. Union of India through its Secretary Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001.
2. The deputy/Assistant Commissioner of Income Tax, Circle-1, Muzaffarpur, Chandralok Bhawan, Near Chandralok Market, Naya Tola, Muzaffarpur-842002, Bihar.
3. Central Board of Direct Taxes Block, Department of Revenue, Ministry of Finance, Government of India, New Delhi-110002.
4. The Principal Commissioner of Income Tax-1, 2nd Floor Central Revenue Building, Beer Chand Patel Marg, Patna-800001.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 2525 of 2022

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Shankar Kumar Singh son of Manik Singh, Resident of Khuskibagh, Katihar More Sadar, P.s. Sadar, Dist.-Purnea 854305, Bihar.

... ... Petitioner/s

Versus

1. Income Tax Officer Ward 3(1), Purnea, Bihar, Income Tax Office, Near Jail Chowk, NH-31 Purnea, Bihar, Pin-854301.
2. Joint Commissioner of Income Tax-1, Bhagalpur.
3. Central Board of Direct Taxes, Ministry of Finance North Block New Delhi-110011.
4. Union of India through Joint Secretary, Ministry of Finance, Room No. 46, North Block, New Delhi-110011.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 4933 of 2022

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Hope Superspeciality Hospital Pvt. Ltd., having its Registered Office at Rambagh, in the town and District of Purnea through its Director Amarnath Kejriwaal, Permanent Resident of Shivaji Colony, P.O.-Purnia, P.S.-K.Hat, District-Purnea (Bihar), Pin-854301.

... ... Petitioner/s

Versus

1. Union of India through its Secretary Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001.
2. Central Board of Direct Taxes North Block, Department of Revenue, Ministry of Finance, Government of India, New Delhi-110002..
3. The Income Tax Officer, Ward-3(), Purnea.
4. The Joint Commissioner of Income Tax, Range-1, Bhagalpur.
5. The Deputy/Assistant Commissioner of Income Tax, Central Circle-2, Patna.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 5068 of 2022

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Hope Superspeciality Hospital Pvt. Ltd., Having its Registered Office at Rambagh, in the town and District of Purnea through its Director Amarnath Kejriwal, aged about 66 years, male, Son of Sri Vishwanath Kejriwal, Permanent resident of Shivaji Colony, P.O. - Purnia, P.S. - K. Hat, District-Purnea (Bihar), Pin - 854301.

... ... Petitioner/s

Versus

1. Union of India Through its Secretary Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi - 110001.
2. Central Board of Direct Taxes North Block, Department of Revenue, Ministry of Finance, government of India, New Delhi - 110002.
3. The Income Tax Officer, Ward - 3 (1), Punea.
4. The Joint Commissioner of Income Tax, Range - 1, Bhagalpur.
5. The Deputy / Assistant Commissioner of Income Tax, Central Circle - 2, Patna.

... ... Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 1009 of 2022)

For the Petitioner/s	:	Mr. Ajay Kumar Rastogi, Sr. Advocate
		Ms. Smriti Singh, Advocate
		Mr.Parijat Saurav, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
		Mr. Kumar Priya Ranjan, CGC
		Ms. Priyanka Raj Lakshmi, CGC
		Mr. Adarsh Kumar Bharadwaj, JC to ASG
		Mr. Sriram Krishna, JC to ASG
		Ms. Prakritita Sharma, JC to ASG
For Income Tax		Mrs. Archana Sinha @ Shahi, Sr. S.C.

(In Civil Writ Jurisdiction Case No. 2525 of 2022)

For the Petitioner/s	:	Mr. Ajay Kumar Rastogi, Sr. Advocate
		Ms. Smriti Singh, Advocate
		Mr.Sanjay Sinha, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
		Mr. Kumar Priya Ranjan, CGC
		Mr. Adarsh Kumar Bharadwaj, JC to ASG
		Mr. Sriram Krishna, JC to ASG
		Mr. Pallav, Advocate
For Income Tax		Mrs. Archana Sinha @ Shahi, Sr. S.C.

(In Civil Writ Jurisdiction Case No. 4933 of 2022)

For the Petitioner/s	:	Mr. Ajay Kumar Rastogi, Sr. Advocate
		Ms.Smriti Singh, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
		Mr. Kumar Priya Ranjan, CGC
		Mr. Adarsh Kumar Bharadwaj, JC to ASG
		Mr. Sriram Krishna, JC to ASG
For Income Tax		Mrs. Archana Sinha @ Shahi, Sr. S.C.

(In Civil Writ Jurisdiction Case No. 5068 of 2022)

For the Petitioner/s	:	Mr. Ajay Kumar Rastogi, Sr. Advocate
		Ms.Smriti Singh, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
		Mr. Kumar Priya Ranjan, CGC
		Mr. Adarsh Kumar Bharadwaj, JC to ASG
		Mr. Sriram Krishna, JC to ASG
For Income Tax		Mrs. Archana Sinha @ Shahi, Sr. S.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-05-2022

Petitioner in C.W.J.C. No. 1009 of 2022 has prayed for the following relief(s):

> "i) For issuance of writ of certiorari or any other appropriate writ quashing the Notice

under Section 148 of the Income Tax Act, 1961 ("the Act")dated 28.06.2021, for assessment year 2014-15 issued by the Assistant Commissioner of Income Act, Circle-I, Muzaffarpur (R-2) herein and also referred to as the "Assessing Officer" hereinafter) initiating proceedings for reassessment against the Petitioner as being wholly without jurisdiction and consequently, is illegal and bad in law as the impugned notice has been issued in violation of mandatory procedure prescribed under Section 148A of the Act and in absence of a valid and proper sanction as prescribed under Section 151 of the Act.

ii) For issuance of an appropriate writ quashing notification S.O. 1703(E) (No.38//2021/F.No.370142/35/2020-TPL) dated 27.04.2021 issued by R-3 as ultra vires the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 dated 29.09.2020 as well as Article 14 of the Constitution of India, 1950.

iii) For issuance of an appropriate writ quashing the preliminary order dated 25.10.2021 whereby the petitioner's objection dated 10.09.2021 and 22.10.2021 on the issue of assumption of jurisdiction has been rejected by the Assessing Officer (R-2) by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon'ble Supreme Court in the case of GKN Driveshafts (India) vs ITO and Others reported in (2003) 259 ITR 19.

iv) For issuance of an appropriate writ quashing the notices under Section 143(2) dated 16.11.2021 by which the Assessing Officer (R-2) has assumed jurisdiction to assess/ reassess the alleged escaped income.

v) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

Petitioner in C.W.J.C. No. 2525 of 2022 has prayed for the following relief(s):

“(i) Writ of and/or order and or directions in the nature of certiorari, prohibition, mandamus or any other appropriate writ, order or direction quashing impugned notice dated 30.06.2021 issued by respondent no. 1 under section 148 of the Act, 1961 and proceedings initiated pursuant thereto, and

(ii) Writ of and/or order and/or direction in the nature of prohibition commanding Respondent no. 1 and Respondent no. 2 to forebear from giving effect to and/or taking any step whatsoever pursuant to and/or in furtherance of the said purported notice under section 148 of the Act, 1961 and/or in any proceedings initiated there under for the Assessment Year 2017-18, and

(iii) Writ or and/or order and or directions in the nature of certiorari, prohibition, mandamus or any other appropriate writ, order or direction declaring that the clause (a)(a) of notification no. 20/2021 an explanation thereto and the clause (a)(b) of notification no. 38/2021 and explanation thereto are ultra-vires the income tax act, 1961, the finance act, 2021 and taxation and other laws (relaxation and amendment of certain provisions) act, 2020, and

(iv) Writ to award cost of litigation, and

(v) Writ in the nature of mandamus or any other writ, order or direction, as deemed fit and proper in the facts and circumstances of the present case."

Petitioner in C.W.J.C. No. 4933 of 2022 has prayed for the following relief(s):

"i) For issuance of writ of certiorari or any other appropriate writ quashing the Notice under Section 148 of the Income Tax Act, 1961 ("the Act")dated 29.06.2021, for assessment year 2016-17 issued by the Income Tax Officer, Ward-3(1), Purnea (R-3) herein and also referred to as the "Assessing Officer" hereinafter) initiating proceedings for reassessment against the Petitioner as being wholly without jurisdiction and consequently, is illegal and bad in law as the impugned notice has been issued in violation of mandatory procedure prescribed under Section 148A of the Act and in absence of a valid and proper sanction as prescribed under Section 151 of the Act.

ii) For issuance of an appropriate writ quashing notification S.O. 1703(E) (No.38//2021/F.No.370142/35/2020-TPL) dated

27.04.2021 issued by R-2 as ultra vires the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 dated 29.09.2020 as well as Article 14 of the Constitution of India, 1950.

iii) For issuance of an appropriate writ quashing the preliminary order dated 29.07.2021 whereby the petitioner's objection dated 28.07.2021 on the issue of assumption of jurisdiction has been rejected by the Assessing Officer (R-3) by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon'ble Supreme Court in the case of GKN Driveshafts (India) vs ITO and Others reported in (2003) 259 ITR 19.

iv) For issuance of an appropriate writ quashing the notices under Section 143(1) dated 22.11.2021 issued by R-3 and dated 08.03.2022, 14.03.2022 issued by R-5 by which the Assessing Officer (R-3 and R-5)) have assumed jurisdiction to assess/ reassess the alleged escaped income.

v) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case."

Petitioner in C.W.J.C. No. 5068 of 2022 has prayed for the following relief(s):

"i) For issuance of writ of certiorari or any other appropriate writ quashing the Notice under Section 148 of the Income Tax Act, 1961 ("the Act")dated 29.06.2021, for assessment year

2017-18 issued by the Income Tax Officer, Ward-3(1), Purnea (R-3) herein and also referred to as the "Assessing Officer" hereinafter) initiating proceedings for reassessment against the Petitioner as being wholly without jurisdiction and consequently, is illegal and bad in law as the impugned notice has been issued in violation of mandatory procedure prescribed under Section 148A of the Act and in absence of a valid and proper sanction as prescribed under Section 151 of the Act.

ii) For issuance of an appropriate writ quashing notification S.O. 1703(E) (No.38//2021/F.No.370142/35/2020-TPL) dated 27.04.2021 issued by R-2 as ultra vires the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 dated 29.09.2020 as well as Article 14 of the Constitution of India, 1950.

iii) For issuance of an appropriate writ quashing the preliminary order dated 29.07.2021 whereby the petitioner's objection dated 28.07.2021 on the issue of assumption of jurisdiction has been rejected by the Assessing Officer (R-3) by a non-speaking and cryptic order passed only as a formal observance of the procedure laid down by the Hon'ble Supreme Court in the case of GKN Driveshafts (India) vs ITO and Others reported in (2003) 259 ITR 19.

iv) For issuance of an appropriate writ quashing the notices under Section 142(1) dated 22.11.2021 issued by R-3 and dated 08.03.2022, 14.03.2022 issued by R-5 by which the Assessing Officer (R-3 and R-5)) have assumed jurisdiction to assess/ reassess the alleged escaped income.

v) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case."

Learned counsel for the parties jointly pray that the present petitions be disposed of in terms of the directions **dated 4th of May, 2022,** issued by Hon'ble the Apex Court in **Civil Appeal No. 3005/2022,** titled as **Union of India & Ors. Vs. Ashish Agarwal and other analogous cases.**

Ordered accordingly.

Petitions stand disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Satyavrat Verma, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	20.05.2022
Transmission Date	