IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6620 of 2022

==

M/s Patna Guinea House Shop and office at Ashok Raj Path, P.O. and P.S.-Bankipur, Town and District-Patna, The proprietor of the shop is Bijay Kumar Gupta (H.U.F.), Resident of Lal Bahadur Shastri Nagar, District-Patna Womens College, P.O.-Shastri Nagar, P.S.-Shastri Nagar, District-Patna.

... ... Petitioner/s

Versus

1. The Principal Chief Commissioner Income Tax Central Revenue Building, Veerchand Patel Path, Patna.
2. The Principal Commissioner of Income Tax-2, Central Revenue Building, Veerchand Patel Path, Patna.
3. The Joint Commissioner of Income Tax, Range-4 Lok Nayak Bhawan, Near Dak Banglow, Patna.
4. Deputy/Assistant Commissioner/Income Tax Officer, Circle-4, Patna.
5. The Assistant Director, Investigation Unit-II, Revenue Building, Bir Chand Patel Path, Patna.
6. The Income Tax Officer, National Faceless Assessment Center.

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr.Krishna Mohan Mishra, Advocate
For the Respondent/s : Mrs.Archana Sinha @ Archana Shahi, Advocate

==

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

Date : 09-05-2022

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

i. To quash and set aside the notice issued under section 147/148 of the Income Tax Act dated 31.03.2021 as well as order of re-assessment dated 29.03.2022 whereby the respondent no.6 has levied tax of Rs. For the assessment year 2017-18 but the said order has been passed without providing opportunity of hearing to the petitioner as is admitted by assessing officer in the re-assessment order dated 29.03.2022.

ii. To hold and declare that the imitation of proceeding of re-assessment under section 147/148 of the Income Tax Act is bad and illegal as petitioner had already disclosed bank account in the profit and loss account and balance sheet which filed with return of income.

iii. To hold and declare that there is not escapement of income and tax within the meaning of section 147 of the Act in view of the fact that petitioner had disclosed the deposit and bank account vide bank account no. 911020021375951 (Axis Bank) and Account no. 3049258724 (SBI) in the return and the profit and loss account which filed by petitioner before issuing notice u/s 148, as such, reassessment order passed on 29.03.2022 u/s 147 is amount to change of opinion and review as per the order/judgment passed by Hon'ble Apex Court in CIT vs Kalivinator, (2010) 320 ITR 561 and order of The Hon'ble High Court in the case of Ravindra Kumar (HUF) vs CIT, Patna reported in (2019) 419 ITR page-308.

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

After the matter was heard for some time, finding the Court not in favour of the submissions made by the learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that the petitioner shall be content if the petition is disposed of, with liberty to file an appeal before the appropriate forum and to take recourse to such other alternate remedies which are equally efficacious in law.

Smt. Archana Sinha @ Shahi, learned counsel for the respondents, states that limitation shall not be allowed to come in the way if the petitioner prefers such an appeal within four weeks from today.

Statement accepted and taken on record.

Prayer allowed.

The petition is disposed of with the liberty aforesaid.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.05.2022
Transmission Date	