IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7073 of 2022

Mohan Kumar Kedia, S/o Late Ram Kumar Kedia, resident of Near Middle School, City-Gulabbagh, Hansdah, P.S.-Sadar, District-Purnia.

... ... Petitioner/s

Versus

1. The Principal Chief Commissioner, Income Tax (Bihar and Jharkhand) Revenue Building, Bir Chand Patel Path, Patna.
2. The Commissioner of Income Tax-1, Lok Nayak Bhawan, Dak Bungalow Chouraha, Patna.
3. The Income Tax Officer, Ward-3 (1), Purnea.
4. The Deputy Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N.Shahi, Sr. Advocate
		Mr.Alok Kumar @ Alok Kr Shahi, Advocate
For the Respondent/s	:	Dr. K.N.Singh, A.S.G.
		Mr. Rishi Raj Sinha, Advocate

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

Date : 21-06-2022

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

"a) For issuance of writ of Certiorari, quashing assessment order dated 31.03.22 passed under Sec. 147 read with Sec. 144 read with Sec. 144B of Income Tax Act and demand notice dated 31.03.22 (Annexure-9 Series) issued by respondent no 4 for AY 2015-16 without considering the reply filed by the Petitioner, respondent had violated the principles of Natural Justice.

b) For any other consequential relief or reliefs for which the petitioner is found entitled during course of hearing of this writ petition."

On 17.05.2022, we had passed the following order:-

> "Shri P.N. Shahi, learned senior counsel for the petitioner, inviting our attention to the draft assessment order (page 100), submits that the assessee had placed on record material which ought to have been considered by the authority while passing the assessment order dated 31.03.2022. There is proper acknowledgment of the petitioner having placed additional material which the authority ought to have looked into and dealt with while passing the final order in proposition to be draft assessment order dated 29.03.2022.
>
> It is further pointed out that had the authority accounted for such material, perhaps the issue of short term capital gain would have had a different bearing on the outcome of the decision i.e. the assessment order dated 31.03.2022.
>
> Notice.
>
> As prayed for, let Reply be positively filed by the respondents within a period of three weeks from today. Rejoinder thereto, if any, be filed within a period of three weeks thereafter.
>
> Meanwhile, no coercive steps be taken against the petitioner.
>
> List this case on 21.06.2022."

The observations made supra are not disputed.

In view of the same, the impugned order of assessment dated 31.03.2022 (Annexure- 9 series, Page 113) is quashed and set aside for the reason that the order stands passed in violation of principles of natural justice; material placed on record was neither referred to nor considered and dealt with; entails civil and penal consequences inasmuch as liability stands fastened upon the petitioner.

Liberty reserved to the petitioner to place additional materials, should the need so arise, within a period of two weeks from today.

The Assessing Authority shall pass a fresh order expeditiously in compliance with the principles of natural justice.

The instant petition sands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	23.06.2022
Transmission Date	