IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7795 of 2022

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Anju Singh, Wife of Nawal Kishore Singh,q Permanent Resident of Main Road, Budha Colony, P.. GPO, P.S. Budha Colony, District - Patna - 800 001.

... ... Petitioner/s

Versus

1. Principal Commissioner of Income Tax - 1, Patna 2nd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Deputy/Assistant Commissioner of Income Tax, Circle-1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bungalow Chowk, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Ms. Smriti Singh, Advocate

For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Advocate
Mr. Alok Kumar, Advocate
Mr. Sanjeev Kumar, Advocate

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

Date : 21-06-2022

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

i) quashing the show cause notice dated 23.03.2022 issued to the petitioner under section 148A(b) of the Income Tax Act, 1961 (hereinafter "the Act") by the respondent Assistant Commissioner of Income Tax (hereinafter referred to as "the Assessing Officer") for the Assessment Year 2018-19.

ii) quashing the order dated 31.03.2022 passed under section 148 A(d) of the Act holding it to be a fit case for issuance of notice under section 148 of the Act.

iii) quashing the notice under section 148 of the Act dated 31.03.2022 issued by the respondent Assessing Officer calling upon the petitioner to furnish a return of income within 30 days of service of the notice, and

iv) granting such other and further relief(s) to which the petitioner may in law be found entitled."

In the attending facts and circumstances, we are inclined to allow the present petition, more so, on the ground that petitioner was not afforded adequate opportunity inasmuch as no opportunity of filing reply within seven days, as contemplated under Section 148A of Income Tax Act, 1961 (hereinafter referred to as the 'Act'), is stipulated.

We notice that in the instant case, notice was issued on 23rd of March, 2022, directing the petitioner to respond on or before 30th of March, 2022. No doubt, petitioner did respond but then the obligation cast upon the officer to afford "7 clear days", as is so stipulated in the section was never afforded to the petitioner. The language of the section is unambiguously clear. There is a mandate to the officer to provide opportunity to the petitioner of filing response and such period being "not less than" seven days.

We notice that the respondent authority passed the order on 31st of March, 2022, which also only exhibits undue haste in passing the order against the assessee.

We are persuaded by Ms. Smriti Singh, learned counsel for the petitioner, to take the aforesaid view also on the strength of the decision dated 12th May, 2022 rendered by Delhi High Court in W.P.(C) 7385 of 2022, titled as **Shri Sai Co-operative Thrift and Credit Society Ltd. Vs. The Income Tax Officer, Ward 43-6**.

Accounting for all the attending facts and circumstances, the order dated 31.03.2022, passed by respondent no.2, namely, the Deputy/Assistant Commissioner of Income Tax, Circle-1, Patna is set aside with the authority to issue a fresh notice within 15 days in terms of Section 148 of the Income Tax Act, 1961 and complete the appropriate proceedings in accordance with law.

Petitioner through learned counsel undertakes to fully co-operate and respond to the notice within the period stipulated under Section 148A of the Act and/or the period specified in the notice.

The officer concerned shall pass an order within a period of two months thereafter.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2022
Transmission Date	NA