IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9414 of 2022

Bijay Kumar Gupta, Son of Late Lakhi Prasad, Resident of Lal Bahadur Sharstri Nagar, Behind JD Womens College, P.O.- Shastri Nagar, P.S.- Shastri Nagar, District- Patna.

... ... Petitioner/s

Versus

1. The Principal Chief Commissioner Income Tax, Veerchand Patel Path, Patna.
2. The Principal Commissioner of Income Tax-2, Veerchand Patel Path, Patna.
3. The Joint Com,missioner of Income Tax, Range-4, Patna.
4. Deputy/Assistant Commissioner/Income Tax Officer, Circle-4, Patna.
5. The Assistant Director, Investigation Unit-II, Revenue Building, Patna.
6. The Income Tax Officer, Ward 4 (2), Patna.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Krishna Mohan Mishra, Advocate
		Mr. Prasoon Kumar, Advocate
For the Respondent/s	:	Mrs. Archana Sinha @ Archana Shahi, Sr. S.C.
		Mr. Alok Kumar, Jr. S.C.
		Mr. Sanjeev Kumar, Jr. S.C.

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

Date : 14-07-2022

Heard learned counsel for the parties.

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

i. To quash and set aside the assessment order as well as demand notice issued by respondent no. 4 dated 24.12.2019 due to the reason that instead of passing order and creating demand in the hand of another taxpayer namely M/S Patna Guinee House, the order of assessment has been made and demand of Rs.2,31,01,624/ has been created in the hand of petitioner which per se is erroneous in the hand of petitioner.

ii. To hold and declare that the levy of tax on whole of the deposit made in bank account number 911020021375951 (wrongly mentioned in assessment order as 911020021375957) in the hand of petitioner is bad and illegal as the respondent in order dated 29.03.2022 admitted that said bank deposit has been made by Patna Guinea House not by petitioner as such, assessment could have been made in the hand of Patna Guinea House no in the hand of petitioner.

iii. To hold and declare that the amount of deposit of cash in bank account of Patna Guinea house cannot be subjected to tax in the hand of petitioner because the said bank, account operating in Axis Bank is existing in the name of Patna Guinea House not in the name of petitioner.

iv. To hold and declare that the respondent assessing officer has not allowed proper opportunity of hearing nor has considered the document available on record, as such, passing of order under section 143 (3) on 24.12.2019 is illegal and against the principle of Natural Justice as such the whole of the order is illegal and bad.

v. To hold and declare that the attachment of bank account for recovery of disputed amount of tax of Rs.2,31,01,624/- is bad and illegal because the order and the demand passed by the assessing officer is wholly illegal and bad in law as deposit made in bank account is not belonging to the petitioner rather by other tax payer ;

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

Shri Krishna Mohan Mishra, learned counsel for the petitioner, states that petitioner's appeal assailing the impugned orders dated 24.12.2019 and 29.03.2022 (Annexures-P/1 and P/8) is pending consideration before the Appellate

Authority.

Mrs. Archana Sinha @ Archana Shahi, learned counsel for the respondents, states that if the petitioner were to fully cooperate, the petition can be disposed of with a direction to the Appellate Authority to consider and decide the appeal on merits.

In view of the same, we request the Appellate Authority CIT Appeal-2, Patna to positively decide the appeal expeditiously and preferably within a period of three months from today.

Mrs. Sinha undertakes to communicate the order to the appellate authority.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.07.2022
Transmission Date	