IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9455 of 2022

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Ashish Kumar Jhunjhunwala son of Krishanlal Kumar Jhunjhunwala resident of Roopchand Roy Street, Signum Aristo BL-3, 7th Floor, Flat 7B, 76/1B Bidhan Sarani, Kolkata FBB, Hatibagan, Kolkata 700006, West Bengal.

... ... Petitioner/s

Versus

1. National Faceless Assessment Centre Delhi (earlier National e- Assessment Centre, Delhi) through Pr. Chief Commissioner of Income Tax, 2nd Floor, Jawaharlal Nehru Stadium, New Delhi 110003.
2. Income Tax Officer Ward - 1(1), Bhagalpur, having his office at Range Office, Anand Chikitshalaya Road, Bhagalpur, Bhagalpur, Bihar, 812002.
3. Assistant Commissioner of Income Tax (National E- Assessment Centre) 2nd Floor, Jawaharlal Nehru Stadium, Delhi, 110003.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, Advocate
		Mrs. Archana Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-11-2022

Heard learned counsel for the parties.

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

"i). the order dated 24.04.2021 (as contained in Annexure-11) passed by the respondent no. 1 under Section 143(3) read with Section 144B of the Income Tax Act, 1961 for the assessment year 2018-19 in an inexplicably short time of less than 72 hours resulting in an astronomical demand of tax without consideration of a petition seeking extension of time contrary to the settled principles of natural justice and also in complete violation and derogation of Section 144B of the Income Tax Act, 1961 be quashed.

ii) the notice of demand dated 24.04.2021 (as contained in Annexure-12 series) issued by the respondent no. 1 for the assessment year 2018-19 be quashed.

iii) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

Having heard learned counsel for the parties, despite the objections raised by the Revenue, we are inclined to allow the present petition, more so, for the reason that the petitioner could not respond to the notice to show-cause on account of Covid-19. Also, we find the time afforded to the petitioner for responding within three days was not sufficient. What was the hurry for the officer to have issued the show-cause in relation to the assessment proceedings pertaining to the assessment year 2018-2019 by affording opportunity of just three days cannot be inferred from the record.

Be that as it may, we find the explanation furnished by the petitioner for non-submission of the response to the notice to show-cause to have been reasonably explained on account of the Pandemic Covid-19.

As already noticed, only three days' time was afforded to the petitioner to respond and on the succeeding day, the impugned order was passed on 24th of April, 2021 (Annexure-11), whereby the assessment stands carried out in terms of and under the provisions of Section 144B read with Section 143(3); 143(3A) and 143(3B) of the Income Tax Act, 1961.

The proceedings conducted were by way of procedure termed as “Faceless”.

As such, the order dated 24.04.2021 passed by Respondent No. 1, namely, National Faceless Assessment Centre Delhi (earlier National e-Assessment Centre, Delhi) through Pr. Chief Commissioner of Income Tax, 2nd Floor, Jawaharlal Nehru Stadium, New Delhi 110003 (Annexure-11, page 69) is quashed and set aside with a direction to the Assessing Officer to carry out a fresh assessment, in accordance with law.

Shri D.V. Pathy, learned counsel for the petitioner states that petitioner shall respond to the notice to show-cause (Page-56) within one week from today.

Let proceedings be completed within a period of one month thereafter.

The present petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	14.11.2022
Transmission Date	