IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17508 of 2019

Baidyanath Prasad Verma, Son of Late Shyama Charan Prasad, permanent resident of House No. B-10, Professors Colony, Ramna Kalambagh Road Muzaffarpur, P.O.- Ramna, P.S.- Kazi Mohammadpur, District- Muzaffarpur presently residing at House No. 995, Sector 17, Faridabad, P.O.- Faridabad, P.S.- Sector 17, District- Faridabad.

... ... Petitioner/s

Versus

1. The Principal Commissioner of Income Tax 1 Patna, 2nd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Assistant/Joint Commissioner of Income Tax, Range-1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
3. Income Tax Officer, Ward 1 (1), 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
4. The Principal Commissioner of Income-Tax, Bela Kothi, Bela Industrial Estate, Mission Road, Muzaffarpur.
5. The Additional/Joint Commissioner of Income Tax, Muzaffarpur Range, Bela Kothi, Ram Krishna Ashram Road, Muzaffarpur.
6. The Income- tax Officer, Ward 1(1), Bela Kothi, Ram Krishna Ashram Road, Muzaffarpur.
7. The Assistant Commissioner of Income-tax, Circle-1, Bela Kothi, Ram Krishna Ashram Road, Muzaffarpur.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Rastogi, Sr. Advocate
		Ms. Smriti Singh, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, Advocate
		Ms. Archana Shahi, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-07-2022

Heard learned counsel for the parties.

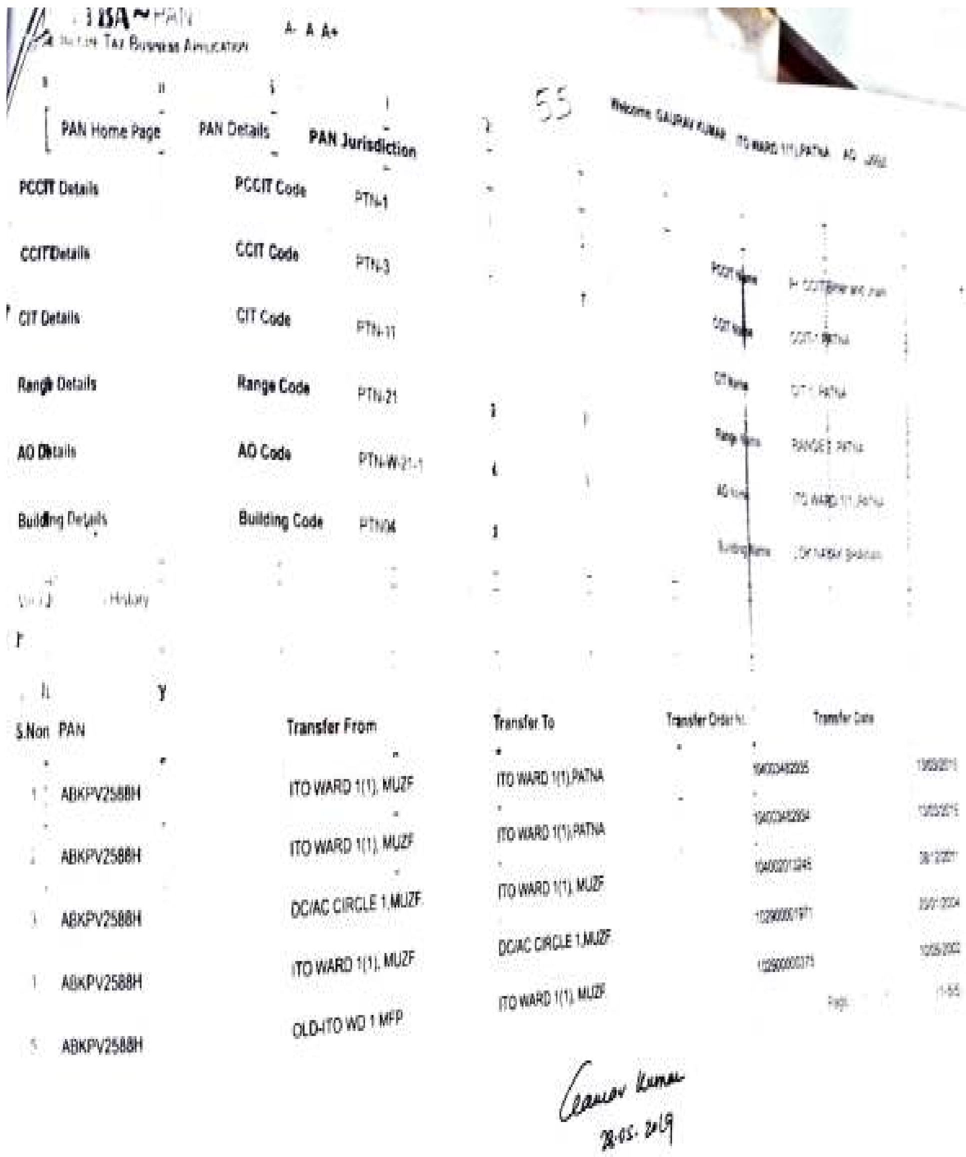
The petitioner has prayed for the following relief/s :-

> "i) For issuance of an appropriate writ quashing the order of transfer served along with RTI dated 28.05.2019 (Annexure-10) whereby the jurisdiction of the petitioner's PAN was transferred from ITO, Ward 1(1), Muzaffarpur to ITO, Ward 1 (1), Patna.
>
> ii) For issuance of an appropriate writ quashing all subsequent notices (notice issued u/s 133(6) of the Act by ITO Ward 1(1), Patna dated 22.01.2019, notice issued u/s 148 of the Act by ITO Ward 1(1), Patna dated 27.03.2019, letter dated 08/09.07.2019 and letter dated 16.07.2019) issued pursuant to assumption of jurisdiction by virtue of the transfer of PAN from ITO, Ward 1(1), Muzaffarpur to ITO, Ward 1(1), Patna.
>
> iii) For issuance of a direction to the respondent authorities to produce a copy of the order, if any, passed u/s 127 of the Income Tax Act, 1961 ("the Act") by Commissioner of Income Tax,

Muzaffarpur and thereby for quashing the same by which the case of the petitioner has been transferred from ITO, Ward-1(1) Muzaffarpur to ITO, Ward-1(1), Patna without following the procedure prescribed for such transfer as mentioned in the Income Tax Act, 1961.

iv) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case."

We are of the considered view that the impugned action of the Revenue Department needs to be quashed and set aside. It is not in dispute that since inception petitioner was filing his return before the competent authority, i.e., the Assessing Officer at Muzaffarpur (Bihar). This was so being done till the financial year 2017-18. However, with respect to the succeeding year, i.e. 2018-19, when he filed his return electronically, it stood reflected to have been filed before the competent officer at Patna and not Muzaffarpur (Bihar). The reason being that some time in the year 2015, vide a **"bulk transfer",** certain cases from different jurisdictions within Bihar, including Muzaffarpur were transferred to Patna. This is evident from document (Annexure-10, Page - 55), which is extracted herein below :-



ITBA PAN
Income Tax Business Application

55

Welcome GAURAV KUMAR ITO WARD 1(1),PATNA

PAN Home Page | PAN Details | PAN Jurisdiction

PCCIT Details	PCCIT Code	PTN-1	PCCIT Name	[illegible]
CCIT Details	CCIT Code	PTN-3	CCIT Name	CCIT-1 PATNA
CIT Details	CIT Code	PTN-11	CIT Name	CIT-1 PATNA
Range Details	Range Code	PTN-21	Range Name	RANGE 1 PATNA
AO Details	AO Code	PTN-W-21-1	AO Name	ITO WARD 1(1) PATNA
Building Details	Building Code	PTN04	Building Name	[illegible]

History

S.No	PAN	Transfer From	Transfer To	Transfer Order No.	Transfer Date
1	ABKPV2588H	ITO WARD 1(1), MUZF	ITO WARD 1(1),PATNA	[illegible]	[illegible]
2	ABKPV2588H	ITO WARD 1(1), MUZF	ITO WARD 1(1),PATNA	[illegible]	[illegible]
3	ABKPV2588H	DC/AC CIRCLE 1,MUZF	ITO WARD 1(1), MUZF	[illegible]	[illegible]
4	ABKPV2588H	ITO WARD 1(1), MUZF	DC/AC CIRCLE 1,MUZF	[illegible]	[illegible]
5	ABKPV2588H	OLD-ITO WD 1 MFP	ITO WARD 1(1), MUZF		

Gaurav Kumar
28.05.2019

It is relevant to point out that the transfer was not effected in terms of any order passed by any competent authority under Section 127 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’).

In relation to the proceedings for the Assessment Year 2018-19, no further notice was issued to the petitioner. However, the matter did not rest there. In relation to the proceedings pertaining to the Assessment Year 2012-13, the

Income Tax Officer, Patna issued notice dated 27th of March, 2019 (Annexure-5, page -41), under Section 148 of the Act. Immediately, petitioner responded to the same, i*nter alia,* raising several issues including that of the jurisdiction of the officer at Patna to reopen the assessment.

It is a matter of record that prior to finalization of such reassessment proceedings, petitioner approached this Court by way of instant petition, which was preferred on 07.08.2019. It is also a matter of record that post filing of the instant petition, the said Assessing Officer has passed an order in relation to the proceedings in question which stands placed on record vide Annexure -19 series. The order is dated 16th of December, 2019. Undisputedly, the petitioner did appear before the Assessing Officer but continued to raise the jurisdictional issue.

In our considered view, the Assessing Officer at Patna would have had no jurisdiction to carry out the assessment proceedings pursuant to action initiated under Section 148 of the Act, particularly, when the matter pertained to the jurisdiction of the Assessing Officer at Muzaffarpur and that there was no order passed by the competent authority transferring the cases from the Assessing Officer having competent jurisdiction at Muzaffarpur to that of Patna. The "**bulk transfer**" is automated computer transfer and not by a competent authority.

We may add that it is not clear from record as to who had passed the order at Annexure-10, page - 55 transferring the cases from Muzaffarpur to Patna.

Ms. Archana Sinha, learned counsel for the respondents vehemently refers to and relies upon the provisions of Clause (a) of Sub-section (3) of Section 124 of the Act. The relevant clause is reproduced as under :-

> "(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer-
>
> (a) where he has made a return under sub- section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub- section (1) of section 142 or subsection (2) of section 143 or after the completion of the assessment, whichever is earlier;"

We are afraid that the clause reproduced (supra), in no manner, can be of any aid or help to the Revenue, for the petitioner had always been objecting to the jurisdictional issue as also the proceedings in question related to reassessment initiated under Section 148 and not under Sections 139 and 142 of the Act, as is so referred to in the provision reproduced (supra).

Hence, for all these reasons, we quash and set aside the action initiated against the petitioner including issuance of notice dated 27th of March, 2019 (Annexure-5, Page -41) and the consequential order dated 16.12.2019.

However, we clarify that it shall be open for the officer having competent jurisdiction at Muzaffarpur to initiate the process in accordance with law, should he deem it feet and appropriate.

Needless to add, the period for which the present petition has been pending shall be excluded for the purposes of computation of period of limitation.

The instant petition sands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	30.07.2022
Transmission Date	