IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21391 of 2021

==

Bhola Ram Agro Industries Private Limited situated at - 404, N.P Center, New Dakbanglow Road, District - Patna through its Managing Director, Ajay Kumar Goyanka, aged about 52 years, Gender - Male, Son of Satya Narain Goyanka, Resident of - C/o - Satya Narain Goyanka, Grater Kailash - 2, Police Station and Post Office - Grater Kailash, South Delhi, District - Delhi.

... ... Petitioner/s

Versus

1. Union of India through Secretary Revenue, New Delhi.
2. The Central Board of Direct Taxes through its Chairman, New Delhi.
3. The Principle Chief Commissioner, Income Tax, Central Revenue Building, Virchand Patel Path, Patna.
4. The Principal Commissioner/Commissioner-2, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna.
5. The Joint Commissioner of Income Tax, Range - 2, LokNayak Bhavan, Dakbanglow, Patna.
6. The Income Tax Officer, Ward 2 (1), Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Krishna Mohan Mishra, Advocate
		Mr. Prasoon Kumar, Advocate
For the Respondent/s	:	Dr. K. N. Singh, ASG
		Mrs. Archana Sinha, Advocate
		Mr. Kumar Priya Ranjan, Advocate
		Mr. Sanjeev Kumar, Advocate

==

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

Date : 05-05-2022

Heard learned counsel for the parties.

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

"i. To quash the explanation of clause (A) (a) of notification no. 20 of 2021 [FNo. 370142/35/2020-TLP] dated 31.03.2021 and explanation to notification no. 38/2021 [F No. 370142/35/2020-TPL] dated 27.04.2021 as the said explanation is against the provision of income tax act and also unconstitutional in view of the fact that the explanation appended in said notification are against the newly amended provision under section 149 and 151 of the Income Tax Act. (13 of 2O21)

ii. To quash and set aside the notice issued by respondent assessing officer under section 148/147 of the income tax act because the said notice is against section 149 and 151 which amended and substituted by the Finance Act, 2021, applicable from 01.04.2021.

iii. To hold and declare that the notice under section 148/147 issued by the respondent assessing officer under notification number 20 of 2021 dated 31.03.2021 and notification no. 38 of 2021 dated 27.04.2021 under Taxation and other law (relaxation of certain provision) Act, 2020 (herein after referred as enabling Act) is bad, illegal and unconstitutional in view of the fact that the notification issued as above has become dead after coming into force, Finance Act, 2021, as such, proceeding cannot be initiated for re-assessment as per the provision of enabling Act, 2O2O.

iv. To hold and declare that the enabling provision of law 2020 and the notification issued therein for extension of period of notice is ultra virus and unconstitutional because the said enabling provision and notification is against the provision of income tax act, 2021, as such, notice issued on the strength of such notification and enabling provision is bad and illegal.

v. To hold and declare that the notice issued under section 148 dated 28.06.2021 for the assessment year 2013-14 is bad and illegal in view of the fact that the assessing officer has no reason to believe within the meaning of the Act that the petitioner have suppressed income within the meaning of the Income Tax Act.

vi. To issue any other writ/writs, order/orders, direction/directions as your honour deemed fit and proper."

Learned counsel for the parties jointly pray that the present petition be disposed of in terms of the directions **dated 4th of May, 2022,** issued by Hon'ble the Apex Court in **Civil Appeal No. 3005/2022,** titled as **Union of India & Ors. Vs. Ashish Agarwal and other analogous cases**.

Ordered accordingly.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2022
Transmission Date	