

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.333 of 2022

=====

Lalit Narayan Mishra College of Business Management, (L.N. Mishra) College and Officer at-Bhagwanpur Chowk, Muzaffarpur, Pin-842001, a trust Created Under India Trust Act through its Registrar Kumar Shartendu Shekhar, age about 58 Years, Gender-Male , Son of Late Nigmanand Kumar, Resident of K-41, Nandan Garden Apartment, Majhauilya Road, Post Office-Dumri Police Station-Sadar, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Principal Chief Commissioner, Income Tax, Central Revenue Building, Virchand Patel Path, Patna.
2. The Principal Commissioner, Exemption, Income Tax, Central Revenue Building, Veerchand Patel Path, Patna.
3. The Joint Commissioner of Income Tax, Exemption, Lok Nayak Bhavan, Dakbanglow, Patna.
4. The Deputy/Assistant Commissioner of Income Tax, Exemption Circle, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Krishna Mohan Mishra, Advocate
For the Respondent/s	:	Ms.Archana Sinha @ Archana Shahi, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“ i To quash and set aside the order dated 16.06.2020 as well as demand notice dated 16.06.2020 passed by respondent Deputy/Assistant Commissioner of Income Tax as the respondent no. 4 (Deputy/Assistant Commissioner) had passed order and created demand of Rs.1,53,63,423/- without issuing notice of hearing and also without providing even

minimum opportunity of hearing to the petitioner.

ii. To hold and declare that the order passed by respondent is wholly illegal and arbitrary in view of the fact that the respondent no. 4 has not followed the provision of section 143 (2) and (3) and/or under subsection (3) of section 154 of the Income Tax Act wherein it is mandatory upon the respondent assessing officer to issue prior notice and to provide reasonable opportunity of being heard to the assessee before making assessment or rectification of order, enhancing assessment.

iii. To hold and declare that the order passed by assessing officer for rectification is unreasonable and illegal because no reason or at least valid reason has been assigned in the order to support the assessment and demand rather the order in question is cryptic and non speaking being contrary to the document available on record.

iv. To hold and declare that the demand created by the respondent assessing officer is wholly unreasonably and illegal because the assessee is a trust which running college and the activities carried out by trust is wholly charitable as such the whole of the receipt/income is exempted from levy of tax within the meaning of income tax act.

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

Learned counsel for the petitioner, inviting our attention to the supplementary counter affidavit filed on behalf of the respondents, fairly states that during pendency of the present petition, substantial relief stands granted, inasmuch as, the amount assessed stands reduced from Rs. 1,53,63,423 to Rs.

38,73,763/- with consequential reduction in the demand to Rs.
14,69,387/-.

Learned counsel for the petitioner further states that
petitioner be granted liberty to challenge the said order afresh by
way of separate writ petition.

Liberty granted.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	