IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7593 of 2022

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Mukesh Kumar Gupta son of Indradeo Prasad Gupta having his place of business at namely M/s Kavita Medicine at Chawk Bajar, Munger- 811201 through its authorized representative namely Shri Vikash Saraf male aged about 42 years son of Late Bijay Agrawal resident of Bekapur, Shivaji Chowk, Munger- 811201.

... ... Petitioner/s

Versus

1. The Central Board of Direct Taxes (Income Tax) North Block, New Delhi through Its Chairman.
2. The Principal Chief Commissioner of Income Tax, Bihar and Jharkhand, Central Revenue Building, Birchand Patel Path, Patna.
3. The Principal Commissioner of Income Tax, Bhagalpur.
4. The Income Tax Officer Ward- 2(4), Income Tax Department, Munger.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Gautam Kumar Kejriwal Alok Kumar Jha, Mukund Kumar Ekta Rani, Advocates
For the Respondent/s	:	Ms. Archana Sinha @ Archana Shahi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-08-2023

1. The petitioner is aggrieved with the non processing of the return, which would enable a refund.

2. Suffice it to notice the brief facts of the case, which commences from a return filed for the relevant assessment year 2010-11. The ITR-V acknowledgment is produced at Annexure-3, which the petitioner took a printout from the portal. The petitioner was obliged to send the ITR-V in its physical form within 120 days to the Centralised Processing

Centre at Bengaluru (for brevity, ‘CPC’). The said stipulation is also found in Annexure-3. The petitioner contends that he sent the ITR-V within 120 days and then followed it up with another, which is seen at Annexure-4, which was received at the CPC on 23.8.2012. The petitioner was also issued with Annexure - C, which indicates that the return filed has been sent for processing to the Assessing Officer.

3. The petitioner sent repeated reminders upon which Annexure-9 was issued by the Income Tax Officer, specifically, pointing out that ITR-V was received only on 23.8.2012 after the expiry of one year from the end of the relevant assessment year, which is not permissible as per the Income Tax Act, 1961. The Assessing Officer also issued a communication to the Principal Commissioner of Income Tax with notice to the assessee, pointing out the aforesaid error of a delayed filing of ITR-V, which justified the refusal to further process the return.

4. The assessee places reliance on Annexure-2, circular issued by the Government of India, Ministry of Finance dated 09.05.2016, which permitted delayed ITR-V forms also to be filed within 31.08.2016 upon which there was also a further provision to carry out the processing of returns.

5. In the present case the petitioner had filed a return on 23.08.2012, which has been acknowledged by Annexure-4 by the CPC and also admitted in Annexures 9 and 10 communications issued.

6. In such circumstances, we set aside Annexure 10 and the findings therein, in so far as the delayed ITR-V having been submitted which justified the non processing of the return. We direct the Assessing Officer to process the return in accordance with law and in accordance with Annexure 2 circular.

7. The writ petition would stand allowed. But, however, making it clear that we have, merely, stated that the assessee has a claim of refund and we have not considered the same on merits, which has to be considered by the Assessing Officer.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Spd/-Shiv

AFR/NAFR	
CAV DATE	N/A
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