IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7702 of 2023

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Anil Kumar Sinha Son of Ramnath Saxena, Residing at Bimla Deep Ramnath Smriti, Near Kali Asthan, Shivpur, Patna, Bihar- 800006.

... ... Petitioner/s

Versus

1. Commissioner of Income Tax 1 having its Office at Central Revenue Building, Bir Chand Patel Marg, Patna.
2. Assessment Unit, Income Tax Department, Mayur Bhawan, Cannaught Circus, New Delhi- 110001.
3. Income Tax Officer, Ward 4(1), Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate

For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Sr. SC, Income Tax

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 30-08-2023 The petitioner is aggrieved with Annexure-9 assessment order, according to him passed in violation of Annexure-6 and 7 judgments of this Court. Annexure-6 was a case, in which the petitioner himself has challenged an ex-parte order, which was set aside. The Department came with a modification especially since there was a faceless assessment to be carried out and the petitioner was directed to appear before the Income Tax Officer/Respondent No. 3. No date was specified in Annexure-7 order. The petitioner appeared before the Income Tax Officer/Respondent No. 3 on 13.01.2022 and

filed Annexure-8 objection. However, Annexure-9 assessment order does not speak of the objection having been filed and at paragraph 3.2, wherein synopsis of the submissions of the assessee has to be recorded, it is stated that no submission is received from the assessee, hence no notice issued.

2. The learned Senior Standing Counsel for Income Tax Department submits that the assessment has to be carried out by the faceless unit and hence, the objection filed before the Income Tax Officer/Respondent No. 3 has to be forwarded to the faceless unit for the purpose of issuance of notice. There was no such direction in the modified order at Annexure-7, which created the present problems.

3. In the light of the submissions made by the learned Senior Standing Counsel, we are of the opinion that Annexure-9 can be set aside only on the ground of the objections of the assessee, which was filed before the Income Tax Officer/Respondent No. 3 having not been considered. Assessee would be entitled to file fresh objections within two weeks from today before the Income Tax Officer/Respondent No. 3. The Income Tax Officer/Respondent No. 3 will forward it to the faceless unit and the faceless unit will issue a notice to the assessee in the mode prescribed under the Income Tax Act and also through the Income Tax Officer/Respondent No. 3. The issue shall be considered after affording an opportunity of hearing to the petitioner.

4. The writ petition would stand allowed. We make it clear that we have not made any observation on the merits of the assessment order.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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