IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1698 of 2021
In
Civil Writ Jurisdiction Case No.6052 of 2018

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Syed Jamauluddin Ali, Son of Late Syed Asghar Ali @ Asghar Ali, Resident of Mohallah- Chandwara, Azad, Road, P.S.- Muzaffarpur Town, District- Muzaffarpur, Bihar.

... ... Petitioner

Versus

1. The Union of India.
2. Sri. K.K. Singh, The Principal Chief Commissioner of Income Tax (Bihar and Jharkhand), Central Revenue Building, Bir Chand Patel Marg, Patna-800001 (Bihar).
3. Sri. Kaushal Kumar, Income Tax Officer, Ward- 1 (1), Muzaffarpur at District- Muzaffarpur, Bihar.
4. Sri. Saroj Kumar, Income Tax Officer (ITO), Ward- 2 (5), Sitamarhi at District- Sitamarhi (Bihar).

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Raju Giri, Advocate
For the Opposite Party/s : Dr. K.N. Singh, ASG
Mr. Archana Sinha @ Archana Shahi, Advocate
Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 28-11-2023

The present MJC is filed for non-compliance of the order dated 14.10.2020 passed in C.W.J.C. No. 6052 of 2018. Directions of this Court reads as under:

“20. We are therefore clear that it is for the Assessing Officer of income tax to grant relief under Section 89 of the I.T Act. In all the cases, discussed above, the employer had the

responsibility to make tax deduction at source under Section 192, before making payment of the lump sum amount of salary. The Hon'ble Apex Court held that the employees who were eligible for the benefit of Section 89, had to apply before the I.T Officer to avail benefit of the Section.

29. The instant petition was filed on 31.03.2018, since when the petitioner has been diligently pursuing his remedy before this Court. As such, the period of limitation shall not come in the way of adjudication of the application of the petitioner, if so filed, within next three months.

30. Accordingly, the petitioner is directed to make a required application to the Assessing Officer having jurisdiction of the matter for the grant of relief under Section 89 of the Act in accordance with the provisions of the statue. The SBI is directed to extend all assistance to the petitioner to enable him to avail such relief. We also hope and expect that the Assessing Officer of the income tax considers and dispose of the matter expeditiously and within a period of three months from the date of receipt of application."

2. Respondents have filed Show Cause on 07.02.2022. In para 26, they have stated as under:

"26. That after receiving the order of condonation from the Pr. CIT-1, Patna the Income Tax Officer, Ward – 2(5), Sitamarhi has processed

the ITR and accordingly issued refund to the amount of Rs. 2,12,924/- and also settled the grievance of the petitioner."

3. On 10.02.2022, Income Tax Department have communicated rectification order in which they have indicated that amount refunded is to Rs. 2,12,924/- balance refundable is Rs. 72,394/-.

4. Learned counsel for the respondent, on instruction, submitted that for the purpose of refund of Rs. 72,394/- certain formalities were required to be completed on behalf of the petitioner. The same has not been complied.

5. Taking note of these dates and events, the present MJC – Contempt Petition stands dropped reserving liberty to the petitioner to approach the concerned authority insofar as refund of sum of Rs. 72394/- as indicated in their communication dated 10.02.2022 after completing due formalities in the light of Para 29 of the order dated 14.10.2020 passed in C.W.J.C. No. 6052 of 2018.

6. The concerned Authority is hereby directed to issue a detailed notice as to what is required to be complied on behalf of the petitioner insofar as release of Rs. 72,394/-. If such detailed communication is made to the petitioner, the petitioner

shall complete the formalities. Consequently concerned Respondent would undertake to refund of balance amount of Rs. 72,394/- The above exercise shall be completed within a period of three months from the date of receipt of this order.

7. Accordingly, the present petition stands dropped.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2023
Transmission Date	NA