IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13767 of 2022

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1. Bhaskar Prasad Son of Nitya Nand Prasad Address - Gosai Tola, Patliputra P.S.- Patliputra, District- Patna.
2. Diwakar Prasad son of Nitya Nand Prasad Address - Gosari Tola, Patliputra, P.S.- Patliputra, District- Patna.

... ... Petitioner/s

Versus

1. The Union of India (through Ministry of Finance).
2. Principal Chief Commissioner, Income Tax Bihar and Jharkhand.
3. Income Tax Officer, Ward 4 (1) Patna.
4. Assistant Director of Income Tax, CPC, Bengaluru.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Mrs. Archana Sinha, Sr. SC, Income Tax

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-04-2023

The petitioners are before us claiming refund for the assessment years 2012-13 to 2021-22.

Petitioners point out that Section 234F of the Income Tax Act is an enabling provision to file belated returns on payment of penalty prescribed therein.

Learned Senior Standing Counsel for the Income Tax Department Mrs. Archana Sinha takes us to Section 119(2) (b) of the Act to assert that it is the Central Board which has the power to allow such condonation, for which a proper application has to be made by the petitioners before that authority. It is also submitted that in all these years, the petitioners have filed a return only for the assessment year 2021-22 which was also belated.

We see from Section 234F (2) of the Act that the said provision would apply only in respect of return of income required to be furnished for the assessment year commencing from, on or after 1st April, 2018. Hence, from the assessment year 2019-20, the above provision would be applicable and the petitioners would be entitled to seek the benefit of that provision to file belated returns for the said years. As far as for the prior assessment years, the petitioners would have to approach the Central Board for relief under Section 119(2) (b) of the Act.

Leaving open such remedy, the writ petition would stand closed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.04.2023
Transmission Date	