IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6439 of 2023

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A.A. Enterprises Upper of Kriti Alankar Shyam Nandan Sahay Road, Hoda Building, Chhata Chowk, Muzaffarpur-842001, through its one of the Partner-Tanzeem Uddin Abdullah, aged about 35 years old, male, S/o Jafruddin Abdullah, resident of Ward No.2, Dharmpur, Distt-Samastipur-848101.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Finance, India, New Delhi.
2. The Principal Directorate General of Income Tax, New Delhi.
3. The Director General of Income Tax, New Delhi.
4. The Chief Commissioner Income Tax, Bihar, Patna.
5. The Additional Commissioner, Income Tax, Patna.
6. The Joint Commissioner, Income Tax, Patna.
7. The Assistant Commissioner, Income Tax, Muzaffarpur.
8. The Income Tax Officer Ward 4(1) Patna.
9. The Income Tax Officer Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prabhakar Singh, Advocate
For the Respondent/s	:	Mrs. Archana Shahi, Advocate

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

12 09-09-2024 We have a unique situation where the refund was declined only by reason of the same PAN number being allotted to more than one assessee. The petitioner herein; AA Enterprises, was allotted the number PAN-AAIFA8443R in the year 2003. It is admitted in the counter affidavit that one AAN Enterprises, Chennai was also allotted the very same PAN

number along with another assessee. AAN Enterprises, Chennai has filed a return and obtained refund; both having been done online. The petitioner could not file his online returns since the system refused to accept it. The petitioner had however filed physical returns and there was also a claim of refund for the years 2008-09 to 2011-12.

2. Learned Senior counsel for the department points out that now the refund application cannot be processed, only because any proceedings taken would end up in the refund being granted to AAN Enterprises, Chennai who has an identical PAN number. As of now a new Pan number has been allotted to the petitioner in the year 2010. From the assessment year 2012-13 petitioner has also been submitting online returns.

3. In the above circumstances, to have a resolution of the stalemate, we direct the petitioner to apply for condonation of delay under section 119(2)(a) and (b); online so as to file returns and file applications for refund for the relevant years. We make it clear that the delay has to be necessarily condoned by the Board since the same PAN number being allotted to the different assessee was a mistake committed by the department. The petitioner shall approach the Assessing Officer who shall facilitate the filing of the aforesaid applications as requested by

the writ petitioner. On refund, necessarily the statutory interest shall be entitled to the petitioner.

4. The writ petition stands disposed of with the aforementioned directions.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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