IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7995 of 2024

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Ajit Kumar Jha, S/o Sri Raghunath Jha, Resident of 95 Kaultiya Nagar BMP Road, Patna-14.

... ... Petitioner/s

Versus

1. The Union of India through Ministry of Finance, New Delhi.
2. Secretary, Ministry of Finance, New Delhi.
3. Chief Commissioner of Income Tax Department Bihar Patna Circle.
4. Commissioner Income Tax Department Bihar Patna Circle.
5. Assistant Commissioner Income Tax Department Bihar Patna Circle, DC/AC Circle-6, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Diwakar Prasad Singh, Advocate
		Mr. Amardeep Lokpriya, Advocate
For the Respondent/s	:	Mrs. Archana Sinha @ Shahi, Sr. SC

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-10-2024

The petitioner is concerned with the assessment year 2017-18 on which an assessment order was passed, as per Annexure-P/6.

2. The allegation, on the basis of which notice was issued and assessment concluded, was that there was an amount of Rs. two crores deposited in the account of the petitioner, which is unaccounted income. The assessment order was challenged in first appeal unsuccessfully, as is evident from

Annexure-P/9. A further appeal was taken to the Appellate Tribuanal under the Income Tax Act, as is seen from Annexure-P/10, which was filed on 12.04.2024. Admittedly, no stay application was filed in the appeal.

3. Later, the accounts of the petitioner were frozen, on which the petitioner approached this Court by this writ petition on 09.05.2024. The addition made as per the assessment was Rs. 2,33,78,605/- with interest of Rs. 15,65,430/-. An amount of Rs. 80 lacs was available in the account, which was withdrawn and adjusted against the dues.

4. The learned Counsel for the petitioner submits that the amounts were withdrawn after the writ petition was filed. However, the facts remain that there was not even an application for stay filed before the Appellate Tribunal before which an appeal was filed, as per Annexure-P/10. In the writ petition also, there was no stay granted.

5. In such circumstances, we do not find any illegality in the Department having withdrawn the amounts, especially since not even a stay application was filed before the Appellate Authority. The writ petition under Article 226 of the Constitution of India would not be maintainable, especially in the context of the appellate remedy, as per the statute having

been invoked. We find absolutely no reason to entertain the writ petition and dismiss the same. The appellate authority will hear the appeal in accordance with the year of pendency before it.

6. Interlocutory application, if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	07.10.2024
Transmission Date	