IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14825 of 2024

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Jyotindra Prasad Singh Son of Ramchandra Singh Resident of At Keshawe, Ward No.-08, Near Primary School, P.O.- Kesabe, District- Begusarai (Bihar).

... ... Petitioner/s

Versus

1. The Union of India, through the Principal Chief Commissioner of Income Tax, National Faceless Appeal Centre, C-Block, 4th Floor, S.P.M. Civic Center, New Delhi-110001.
2. The Appellate Authority-cum-Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, C-Block, 4th Floor, S.P.M. Civic Center, New Delhi-110001.
3. The Principal Chief Commissioner of Income Tax, National Faceless Assessment Centre, 4th Floor, Mayur Bhawan, Connaught Circus, New Delhi-110001.
4. The Assessment Officer-cum-Additional Commissioner of Income Tax, National Faceless Assessment Centre, 4th Floor, Mayur Bhawan, Connaught Circus, New Delhi-110001.
5. The Income Tax Officer, Ward 2(1), Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rudra Pratap Singh, Advocate

For the Respondent/s : Dr. K.N.Singh, Additional Solicitor General

Ms. Archana Sinha, Advocate

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 01-10-2024 The petitioner is aggrieved with the dismissal of an

appeal; the order of which is produced at Annexure-7, for reason of the delay occasioned.

2. The learned Counsel for the petitioner submits that though the order impugned in the appeal, produced as Annexure-3, was dated 19.03.2022, the demand notice was uploaded only on 23.08.2022. It is also submitted that the petitioner was suffering from Jaundice between 18.03.2022 to 30.05.2022, the medical certificate of which is produced as Annexure-P/5. The petitioner relying on Section 249(2) argues that the appeal relating to any assessment has to be filed within 30 days of receipt of notice of demand; which notice was received only on 23.08.2022.

3. Annexure-P/4 is pointed out, to contend that the petitioner received the demand notice only on 23.08.2022. However, we see from the specific statement in Annexure-P/4 that the assessee only downloaded the order, along with the demand notice on 23.08.2022; which is not to say that the order was dated 23.08.2022.

4. The learned Senior Standing Counsel for the Income Tax Department also points out from the assessment order at Annexure-3 that simultaneous to the order, the demand notice was also sent.

5. We also see the petitioner's contention that in Annexure-P/4 a demand notice was served on him by speed post on 23.08.2022 which also is not substantiated. In so far as the order is uploaded in the portal, there is no requirement for a further notice to the appellant.

6. We do not find any error in the appeal having been dismissed for reason of the delay occasioned. However, we notice that the petitioner was suffering from Jaundice between 18.03.2022 to 30.05.2022 as is seen from Annexure-P/5. There is a further delay of four months. Only to ensure that ends of justice is met we direct that the delay be condoned if the petitioner pays an amount of Rs.5,000/- as cost, which shall be paid to the Bihar State Legal Services Authority. The cost shall be paid within a period of one month and receipt of the same shall be produced before the jurisdictional officer being the Income Tax Officer, Ward 2(1), Begusarai; who is impleaded as the additional 5^{th} respondent. On the said receipt being produced, the order at Annexure-7 shall set aside.

7. We make it clear that we have not made any observations on the merits. On the cost being paid, the appeal shall be restored and the same considered on merits. If the cost is not paid, Annexure-7 shall stand revived.

8. There shall be no recovery as per the assessment order for a period of one month.

9. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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