IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4815 of 2025

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Navin Kumar Motani Son of Bajrang Lal Motani Permanent resident of Flat No.- 204, Jagtarni Tower, Jamal Road, P.O.- G.P.O., P.S.- Kotwali, Patna, District- Patna, 800001 presently residing at S-71, First Floor, S Block, Panchsheel Park, South Delhi, Delhi- 110017.

... ... Petitioner

Versus

1. Principal Commissioner of Income Tax- 1 having its office at Central Revenue Building, Income Tax Department, Bir Chand Patel Marg, Patna-800001.
2. The Commissioner of Appeal, National Faceless Appeal Centre (NFAC), Income Tax Department, having its office at 6th Floor, Mayur Bhawan, Connaught Lane, Barakhambha, New Delhi- 110001.
3. The Commissioner of Income Tax (Appeals), Income Tax Department, Beer Chand Patel Path, Patna.
4. The Assistant Commissioner of Income Tax, DC/AC, Circle-1, Income Tax Department, Lok Nayak Bhawan, Dak Bunglow Crossing, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Bijay Kumar Gupta, Advocate
		Mr. Manish Kumar, Advocate
		Mr. Sunil Saraf, Advocate
For the Respondent/s	:	Mr.Archana Sinha @ Archana Shahi

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 10-07-2025 In the instant petition, the petitioner has prayed for the following relief(s):-

> *"(i). For issuance of a writ of certiorari or any other appropriate writ(s), order(s) or direction(s) quashing the order issued vide DIN ITBA/NFAC/S/250/2024-25/1071729983(1) dated 31.12.2024 passed by Respondent No-2 (Annex- P-9A) under Section*

250 of the Income Tax Act, 1961 ("the Act") by which addition of Rs. 1,58,27,126/ to the income of the Petitioner for the assessment year ("A.Y."") 2017-18 was done by Respondent No-4 has been confirmed by Respondent No.02 without considering the reply filed by the petitioner and without sending it back to the "Valuation Officer" for correct valuation of capital gain as per requirement of section 50C(2) of Income Tax Act, 1961 despite specific contention advanced by the Petitioner and without granting "Personal Hearing" to the petitioner before passing the Impugned order and without granting opportunity of being heard in contravention of Principles of Natural Justice and addition confirmed by the Respondent No-2 of Rs. 1,58,27,126/- to the income of the Petinoner for the assessment year ("A.Y.") 2017-18 be deleted.

(ii). For issuance of a writ of certiorari or any other appropriate writ(s), order(s) or direction(s) quashing the Assessment Order dated 10.12.2019 issued vide Order No. ITBA/AST/S/143(3)/2019-20/1022044720(1) (Annex- P-3B) Passed under Section 143(3) of Income Tax Act, 1961 and consequent Notice of Demand dated 10.12.2019 vide issued Notice No. ITBA/AST/S/156/2019 20/1022044924 (under section 156 of the Income-Tax Act, 1961) and as the Assessing Officer failed to discharge his statutory duty by not referring the matter to DVO in terms of Section 50C(2) of Income tax

Act, 1961, the addition made by Assessing Officer as per order dated 10.12.2019 by which addition of Rs. 1,58,27,126/-to the income of the Petitioner for the Assessment Year ("A.Y.") 2017-18 was made, be deleted.

iii) For issuance of any other appropriate writ, order or direction which Your Lordships may deem fit and proper in the facts and circumstances of the case."

2. One of the ground in support of the aforementioned relief is that the petitioner has not been provided personal/virtual hearing despite his request. The appellate authority proceeded to pass order on 31.12.2024. Section 144 VII of Income Tax Act, 1965 provides for oral hearing on request. Taking note of the aforementioned provision read with the petitioner's request on 08.05.2024, the appellate authority has failed to provide oral/virtual hearing, therefore on this short ground, the petitioner has made out a case so as to interfere with the impugned order dated 31.12.2024 (Annexure-P-9A series) is set aside.

3. The matter is remanded to the appellate authority to proceed afresh, after providing oral hearing to the petitioner in terms of his request dated 08.05.2024. Thereafter, proceed to pass speaking order after due consideration of each of the

contention to be raised by the petitioner. The appellate authority is requested to strictly take note of the principle laid down by the Hon’ble Supreme Court decision in the case of **Oryx Fisheries Private Ltd. vs. Union of India & Ors.** reported in **(2010) 13 SCC 427** and complete the proceedings within a period of four months from the date of receipt of this order. The petitioner shall cooperate with the respondent authorities.

4. Accordingly, the present CWJC No. 4815 of 2025 stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit Kumar/-

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