IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9226 of 2020

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Shanti Ashram a registered society having its office at Carmel Jwala, Baeily Road, Patna through its Secretary namely Sister Mira Aged about 64 years daughter of Late Gregory Pinto resident of 111/84, Ashok Nagar, Moti Jheel, R.K. Nagar, Kanpur Nagar, Uttar Pradesh- 208012.

... ... Petitioner/s

Versus

1. The Principal Chief Commissioner of Income Tax Bihar and Jharkhand, Central Revenue Building, Birchand Patel Path, Patna.
2. The Commissioner of Income Tax- TDS, Central Revenue Building, Birchand Patel Path, Patna.
3. The Joint Commissioner of Income Tax- TDS Range, Dhanbad.
4. The Income Tax Officer- TDS, Bhagalpur, TDS Ward Bhagalpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal

For the Respondent/s : Ms. Archana Sinha, Sr. Advocate

Ms. Swarna Roy, Advocate

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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)

13 07-05-2025 In the instant petition, the petitioner has prayed for the following relief(s):-

> "(a) For issuance of a writ in the nature of certiorari for quashing of letter number 1375 dated 07.02.2020 issued by respondent ITO-TDS, Bhagalpur (hereinafter referred to as the assessing authority);
>
> (b) For issuance of a writ or order or direction upon the respondent assessing authority for executing the request made by the petitioner for cancellation of the TDS returns filed by the petitioner in form

26 Q for the respective quarters of the financial year 2007 - 2008, 2010 - 2011, 2011 - 2012 and to permit filing of fresh returns in order to rectify the error committed by the respondent assessing authority while feeding the particulars and details of the TDS returns into the system of the respondent income tax department and be further directed to accept the payment of TDS amount already made by the petitioner;

(c) For further issuance of a writ or order or direction upon the respondent assessing authority to refund the sum of Rs. 179,610/- recovered from the petitioner 2nd time on account of mistake committed by the respondent assessing authority while feeding into the system of the Department the details furnished by the petitioner in the TDS returns;

(d) For further issuance of a writ or order or direction calling upon the respondent assessing authority to suitably compensate the petitioner with adequate compensation on account of extremely undue harassment caused for no wrong committed by the petitioner rather sheer negligence and mistake committed by the assessing authority himself;

(e) For further holding and a declaration that the petitioner could not be compelled to pay the said amount of TDS twice as the same amounts to not only gross illegality, arbitrariness and unfairness but also unjust enrichment impermissible in the eye of law;

(F) For further holding and a declaration that the respondent assessing authority and the Department of income tax could not penalise the petitioner for wrong committed by them in light of the maxim Nullus Commodum capere potest de injuria sua propria as has been held by the apex court in the matter of Eureka Forbes Ltd. Vs Allahabad Bank and Others reported in 2010 – 6 – SCC – 193 Pr 65 and 66 as well as in the matter of Lloyd Electric and engineering Ltd versus State of Himachal Pradesh reported in 2016 (1) SCC 560;

(g) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

2. Issue is relating to not tallying the challans alongwith the return filed for the years 2007 – 08, 2009 – 10, 2010 – 11 and 2011 – 12. Resultantly, the respondents have demanded a sum of Rs. 1,79,610/- and it has been paid by the petitioner on 31.01.2020 vide demand draft bearing no. 302909 which are not disputed by the respondents. In order to rectify insofar as filing challans, the petitioner is required to re-submit the return along with the challans. For belated filing of return afresh, he is liable to pay fine under Section 234(E) of the Income Tax Act, 1961.

3. In this regard, the respondents are hereby directed to permit the petitioner to file fresh return thereafter, the

concerned officials are hereby directed to take note of material information and determine nominal fine and if petitioner is entitled to certain amount, the same shall be calculated and disbursed in favour of the petitioner.

4. In this regard, petitioner is hereby directed to file return afresh within a period of four weeks thereafter, the concerned authority is hereby directed to reconcile and resolve the petitioner's grievance within a period of two months from the date of filing of return. If the petitioner is entitled to refund amount, the same shall be released in favour of the petitioner within a period of 15 days from the date of determination.

5. Accordingly, the present CWJC No. 9226 of 2020 stands disposed of.

6. The concerned authority is hereby directed to condone the delay, if any, in respect of resolving the grievance of the petitioner in view of certain technical error alleged to have been committed by the petitioner or officials.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit Kumar/-

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