IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16564 of 2024

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Pravin Kumar, Son of Shri Ramashraya Chaurasia, Resident of Ward No. 5, Kothiya, Tajpur, Samastipur, Bihar-848122.

... ... Petitioner

Versus

1. Assessment Unit, Income Tax Department having its office at 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, New Delhi - 110 003.
2. Central Bank of India, Kothia Bazar (1798), Vill. and Post - Kothia, District Samastipur, Bihar – 848122.
3 Synapse Solutions (P) Ltd. (SSPL)

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. D.V.Pathy, Senior Advocate Mr. Sadashiv Tiwari, Advocate Mr. Hiresh Karan, Advocate Ms. Shivani Dewalla, Advocate
For the Resp No. 1	:	Ms. Archana Sinha @ Archana Shahi, Senior SC Mr. Alok Kumar Shahi, Advocate Mr. Shubham Shankar, Advocate
For the Bank	:	Mr. Prabhakar Jha, Advocate Mr. Amitesh Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 17-04-2025 Heard Mr. D.V. Pathy, learned Senior Counsel for the petitioner, Mr. Prabhakar Jha, learned counsel for the Central Bank of India (in short 'Bank') and Ms. Archana Sinha, learned Senior Standing Counsel for the Department of Income Tax.

2. The petitioner in the present writ application is seeking the following reliefs:-

> "(i) the ex parte order dated 13.03.2024 (as contained in Annexure-P 4 Series) passed by the respondent no. 1 under section 144 read with section 144B the

> Income Tax Act, 1961 (hereinafter called the Act) for the Assessment Year 2022-23 subjecting the deposits received on behalf of the Central Bank of India as its CSP agent and remitted to the bank and not forming part of his income liable to tax under the Act only on the basis of deposits mentioned in the certificate or deduction of tax at source in isolation without considering the corresponding withdrawals mentioned in the same certificate and in contravention of the scheme of faceless assessment contemplated in section 144B of the Act be set-aside and quashed.
> (ii) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

3. The brief facts of the case as disclosed in the writ petition are as under:-

The petitioner is an individual who is engaged in the business of a commission agent for the Central Bank of India. He entered into a tripartite agreement with the Bank and its principal agent Synapse Solutions (P) Ltd. to facilitate banking in the rural areas among the rural masses. Copy of the tripartite agreement dated 20.12.2021 has been brought on record as Annexure-P1 series.

4. The petitioner claims that he filed his income tax return for the assessment year 2022-23 showing a total income of Rs.3,81,094/- from commission received from the Bank. He paid taxes thereon. It is his submission that while making payment of commission, the Bank deducts tax at source which is reflected in the Form 26AS of the petitioner uploaded by the Bank on the portal of the Income Tax Department. The petitioner has placed on record a copy of the certificate of deduction of tax at source in Form 26AS for the assessment year 2022-23 as Annexure-P3.

5. It appears that the return of income of the petitioner was selected for scrutiny assessment under "CASS". The reason for selection of the case was "large cash deposits compared to return income (Non Business Cases)". Accordingly, notice under Section 143(2) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act of 1961') was issued to the petitioner on 01.06.2023.

6. Admittedly, during the scrutiny proceeding, several opportunities were given to the petitioner to file his submissions and submit the relevant documents but the petitioner failed to comply with the notices issued to him. In the circumstances, the Assessing Officer passed the impugned assessment order under Section 144 read with Section 144B of the Act of 1961 by following the procedures laid down under the faceless scheme. The Assessing Officer has determined the total assessed income at Rs.12,91,21,700/- with an addition of Rs.12,87,40,606/- under Section 69A of the Act of 1961 against the declared return income of Rs.3,81,094/-.

7. The petitioner has, though, challenged the procedure adopted by the Assessing Officer during the faceless proceeding, at this stage, it transpired in course of argument that the petitioner has got an alternative remedy of appeal under Section 246A of the Act of 1961 before the CIT (Appeals).

8. Learned Senior Standing Counsel for the Income Tax Department submits that in view of an alternative statutory remedy which is equally efficacious, this Court need not entertain the present writ application, however, learned Senior Counsel for the petitioner submits that during pendency of the writ application, the Central Bank of India (Respondent No. 2) has brought on the record a counter affidavit and on a bare reading of the statements made in paragraphs '10' and '11' of the counter affidavit, it would appear that the petitioner has earned a commission income of Rs.3,34,882/- only. The Bank has clearly stated in paragraph '11' of its counter affidavit that the petitioner deposited the customer amount in the overdraft account 3616675872 on the basis of the tripartite agreement and subsequently remitted the same to the Bank which did not form part of its income chargeable to tax. By showing these statements in the counter affidavit of Respondent No. 2, learned Senior Counsel for the petitioner submits that grave injustice would be caused to the petitioner if the impugned order is not set aside and the petitioner is not given an opportunity to place all the materials before the Assessing Authority.

9. Having heard learned counsel for the parties and on perusal of the records, this Court finds that the counter affidavit of the Department of Income Tax enlists the various notices issued to the petitioner from time to time in course of the assessment proceeding. In paragraph '3' of the counter affidavit, after showing the kind of show cause notices and letters issued to the petitioner in this case, the Department has made a categorical statement that after complying with all the statutory provisions and by following the due procedures as laid down under the faceless scheme, the assessment order was completed under Section 144 read with Section 144B of the Act of 1961. To that extent, there is no difficulty in appreciating the stand of the Department but at this stage when this Court goes through the averments made in the counter affidavit of the Bank, particularly, in paragraphs '10' and '11', it appears to this Court that the contention of the petitioner that he had income from commission only and the amount deposited in the overdraft account were that of the customers which were remitted to the Bank cannot be thrown out. His submission is required to be considered.

10. Paragraphs '10' and '11' of the counter affidavit of the Bank read as under:-

> "10. That as per tripartite agreement, the concerned BC has taken deposit from the customer and further credit amount in the bank account. Withdrawal payment was also done on the same basis. This exercise of case transaction is based on principle undermentioned at BC point. When cash is accepted from customer for depositing in central bank account, by bank BC, then at first BC account got debited and thereafter customer account got credited by the same amount at BC point, when cash payment to customer is made by our bank BC, then at first customer account got debited and thereafter BC account got credited by the same amount.
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> 11. That petitioner deposit the customer amount in the overdraft account 3616675872 on the basis of tripartite agreement and subsequently remitted to the bank did not form part of its income chargeable to tax. Turnover in this account for financial year 2021-22 is satisfactory (credit summation Rs.156536764 and debit summation Rs 156556619). The commission amount Rs.334882/-."

11. In the kind of the pleadings available on the record, this Court grants liberty to the petitioner to avail the remedy of statutory appeal before the CIT (Appeals) within a period of four weeks from today. If such an appeal is preferred, the same will be considered keeping in view that the petitioner was pursuing his remedy before this Court by filing this writ application under some bonafide legal advice.

12. The Appellate Authority shall consider the appeal and pass an appropriate order thereon within a period of four months from the date of filing of the appeal.

13. Learned Senior Counsel for the petitioner undertakes that he will fully co-operate with the Appellate Authority in early disposal of the appeal and shall not seek unnecessary adjournments.

14. It would be expected that the Assessing Officer shall not take coercive action against the petitioner for the present.

15. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Ashok Kumar Pandey, J)

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