IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4023 of 2026

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Tulip Lab Private Limited a company incorporated under the Companies Act, 2013 having its registered office at 103, Shri Ram Palace, East Boring Canal Road, Patna through its Administrative Officer, Ajay Kumar, aged about 54 years, Male, Son of Ram Gulam Sharma, Permanent resident of Rarhil, P.O- Naima, P.S- Telhara, District- Nalanda- 801306.

... ... Petitioner

Versus

1. The Principal Commissioner of Income Tax-1 Patna.
2. The Commissioner of Income Tax (Appeals)-1, Patna.
3. The Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.
4. The Deputy/Assistant Commissioner of Income Tax, Circle-1, Patna (Assessing Officer).
5. The Central Processing Centre, Post bag no.2, Electronic City Post Office, Bangalore.

... ... Respondents

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Appearance :

For the Petitioner	:	Ms. Smriti Singh, Advocate
For the Respondents	:	Ms. Archana Sinha, Sr. SC
		Mr. Shubham Shankar, Advocate
		Mr. Swarna Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 22-07-2026 Heard learned counsel for the petitioner and learned Senior Standing Counsel for the Department of Income Tax.

2. In the present writ application, the petitioner is seeking the following reliefs:

> "i.) For issuance of writ of certiorari quashing the order dated 07.01.2026 issued by Assessing Officer disposing of the grievance of the petitioner dated 22.10.2024 whereby the prayer of the

petitioner to refund the excess recovery beyond 20% out of disputed demand of Rs. 97,19,270/- has been rejected contrary to the order of the then Assessing Officer dated 10.01.2023, without any opportunity of being heard and thus, violating the principles of natural justice.

ii) For issuance of a writ of mandamus directing the Respondent to refund the excess recovery of the disputed demand beyond 20% during pendency of appeal before the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre in terms of the Central Board of Direct Taxes ("CBDT") Office Memorandum dated 31.07.2017 and in terms of order of the Assessing Officer dated 10.01.2023.

iii) For issuance of a writ of mandamus or any other appropriate writ(s), order(s) or direction(s) directing the Respondent (R-3) to dispose of the appeal of the petitioner for Assessment Year ("A.Y.") 2012-13 in Appeal No. CIT(A),Patna/10294/2015-16 filed on 31.03.2016 and presently pending before the Commissioner of Income Tax (Appeal) ["CIT(A)"], National Faceless Appeal Centre ("NFAC""), Income Tax Department, Delhi.

iv.) For granting any other relief(s) to which the petitioner is otherwise found entitled for."

3. This writ application was taken up for consideration on 23.06.2026. On the said date, this Court passed the following order:-

> "As prayed by learned Senior Standing Counsel for the Department of Income Tax, list this matter after four weeks i.e., 22.07.2026 under the same heading maintaining its position to enable her to file a counter affidavit.
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> 2. This Court finds that in this case, the petitioner has prayed for a direction to the respondents to refund the excess amount left with the Department over and above 20% amount. He could not have required for stay of operation of the impugned order under appeal before the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre in terms of the Central Board of Direct Taxes Office Memorandum dated 31.07.2017 and in terms of the order of the Assessing Officer dated 10.01.2023.
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> 3. It is stated that over Rs. 1 Crore has been withheld by the Department.
>
> 4. It is open to the Department to refund the amount during the pendency of the writ application. In ultimate analysis, if the petitioner succeeds and it is found that the Department has not refunded the amount which were liable to be refunded, this Court shall consider imposing appropriate interest thereon.
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> 5. It will also be open to the Appellate

> Authority to consider and decide the appeal on its own merit during pendency of the writ application.
> 6. List accordingly."

4. No counter affidavit has been filed within the prescribed period.

5. Today, learned counsel for the petitioner has come out with a plea that the petitioner would be pressing only prayer no. 1(iii) at this stage whereunder the petitioner is seeking a writ in the nature of Mandamus directing the Respondent No. 3 to dispose of the appeal of the petitioner for the assessment year 2012-2013 which is pending since 31.03.2016.

6. Learned counsel submits that, in fact, the prayer nos. (i) and (ii) under paragraph '1' of the writ application are not required to be pressed at this stage as the fate of these prayers entirely depends upon the result of the appeal.

7. Learned counsel for the petitioner, therefore, does not press prayer nos. 1(i) and 1(ii). These prayers are taken as not pressed.

8. Learned Senior Standing Counsel for the Department has no objection to the submission of learned counsel for the petitioner.

9. In the given circumstances, without going into the merit of the case, but on finding that the appeal of the petitioner for the assessment year 2012-13 in Appeal No. CIT(A),Patna/10294/2015-16 is pending since 31.03.2016, we direct the Appellate Authority to consider the appeal and pass an appropriate order thereon within a period of three months from the date of receipt/production of a copy of this order. Before passing the final order in the appeal, the Appellate Authority shall provide adequate opportunity of hearing to the petitioner and the authority. In any case, the appellate order must be passed within three months as stated above.

10. All contentions are left open to the parties.

11. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Sunil Dutta Mishra, J)

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