

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9078 of 2023

District Bar Association having its office at District Bar Association, Civil Court Campus, Supaul through its authorised signatory Shri Vinoy Kumar Mishra (Male aged about 64 Years) son of Shri Ramanugrh Mishra resident of Ward No. 3, Karanpur, Supaul, Bihar-852131.

... .. Petitioner

Versus

Assessment Unit, Income Tax Department having its office at Mayur Bhawan, Connaught Lane, Barakhamba, New Delhi, Delhi-110001.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. D.V. Pathy, Advocate

For the Respondent/s : Mrs. Archana Sinha @ Archana Shahi, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-04-2024

The petitioner is aggrieved with the assessment order passed on 27.03.2023 without providing adequate opportunity for being heard.

2. The writ petition has been filed merely on the ground of violation of principles of natural justice. Annexure-1 is the request for adjournment made by the petitioner on 04.03.2023, which is said to have been filed in the portal of the Income Tax Department. Despite that, an assessment order was passed without affording any opportunity of hearing.

3. The Department filed response specifically contending that no such request for adjournment was received in



the portal of the Department.

4. In compliance with the order of this Court, the petitioner filed a supplementary affidavit dated 14.12.2023, wherein Annexure-3 has been produced.

5. Annexure-3 is an auto generated mail issued from the portal of the Income Tax Department, that the request for adjournment for submission to notice under 147 is successfully submitted.

6. The Department has again objected to the same by a rejoinder dated 18.01.2024.

7. In the rejoinder, it has been stated that the request for adjournment has to be uploaded in the assessment module of the "ITBA portal", which has not received any request for extension of time.

8. The learned Senior Standing Counsel also points out that Annexure-3 is a letter received by one Abhishek Kumar, who does not represent the Bar Association, who is the petitioner herein.

9. The learned counsel for the petitioner, however, points out that Abhishek Kumar is the Chartered Accountant who has been entrusted with the filing of returns and also hearing.



10. The Income Tax Department though submits that the adjournment request was not received in the ITBA portal, does not disown the mail issued as produced at Annexure-3. There is nothing pointed out by the Department also that suitable instructions were issued to the assesses to upload the adjournment requests in a particular portal. The computerisation is to facilitate expeditious assessment and it cannot result in such gross violations of principles of natural justice. What is prayed for by the petitioner, which is a District Bar Association is only for reconsideration after hearing it orally.

11. In such circumstances, we set aside the order dated 27.03.2023 as contained in Annexure-2 series in the writ petition.

12. The Income Tax Officer, Ward-3(4), Saharsa, who has filed the counter affidavit in the writ petition, shall on receipt of the certified copy of the judgment, facilitate the opening of the portal so as to enable filing of objections.

13. The petitioner shall file the objections and after affording a personal hearing, the matter shall be considered afresh.

14. We make it clear that the assessment order is set aside only on violation of the principles of natural justice and



we have not looked at the merits of the assessment at all.

15. The writ petition stands disposed of with the aforesaid direction.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23-08-2024
Transmission Date	

