

Bihar Police Building Construction Corporation Pvt. Ltd.

Civil Writ Jurisdiction Case No.16890 of 2017

FORUM

Patna High Court

ORDER DATE

14 May 2019

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

Having heard learned counsel for the petitioner and having perused the materials on record, for the present, we do not think that we need to look into the inter-party merits because in our opinion the petitioner succeeds on the issue of limitation and even if the assessee has failed to raise this objection at any stage of the proceedings, where law itself prohibits initiation of a proceeding on happening of an event, a waiver by the assessee to raise such issue and his participation in the proceeding neither precludes him to raise such issue at any stage of the proceeding nor provides sanction to a void proceedings. On the facts available on record, there is no dispute that the return was filed in the financial year 2004-05 which ended on 31.03.2005 and the notice under Section 143(2) of 'the Act' was being issued on 08.08.2006 as admitted by the Assessing Authority himself, which was far beyond the limitation prescribed under the proviso attached to Section 143(2) of 'the Act' which ended on 30.09.2005 and thus was clearly hit by limitation. In such view of the matter, the entire exercise by the Assessing Authority under Section 143(3) of 'the Act' is illegal and time barred and its affirmation by the appellate authority is an illegality perpetuated. For the reasons discussed, we quash the entire proceedings including the assessment order passed by the Assessing Authority for the assessment year 2004-05 together with the appellate order impugned at Annexures -1 and 3, respectively. The writ petition is allowed.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 329-333

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