

Bihar State Hydroelectric Power Corporation Ltd.

Civil Writ Jurisdiction Case No.2089 of 2018

FORUM

Patna High Court

ORDER DATE

05 Aug 2019

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

2012-13 on 07.08.2018. It is mainly because of while passing the re-assessment under Section 147 of the Income Tax Act, 1961 the claim of business loss by the assessee of Rs.39,44,57,728/- was not allowed inadvertently. As the mistake was apparent from record, the same was allowed vide rectification order under Section 154 of the Income Tax Act, 1961, under memo no. 746, dated 07.08.2018 and the same has resulted into a refund of Rs. 27,17,210/-." Mr. Pathy, learned counsel for the petitioner at this stage while submitting that the assessment order impugned at Annexure-4 series together with the demand notice as impugned at Annexure-4 series yet continues with a number of infirmities prays for liberty for the petitioner to raise the other issues in a statutory appeal under Section 246 of 'the Act' but further submits that since the period of limitation has expired in the meanwhile, a reasonable time may be granted to the petitioner for taking recourse thereto. We do not think Ms. Archana Sinha, learned counsel appearing for the Department would have serious objection on the liberty so prayed and accordingly we dispose of the writ petition allowing the petitioner to contest the assessment order on its merit in so far as the other issues are concerned by filing statutory appeal under Section 246 of 'the Act' and should any such appeal be preferred by the petitioner within 6 weeks from today, if accompanied with the petition for condonation of delay, the Commissioner, Income Tax Appeal shall consider and dispose of the same on its merits in accordance with law after opportunity of hearing to the petitioner or its representative bearing in mind the pendency of the matter before this Court, preferably within six weeks of the filing of the appeal.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 345-348

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