

Anju Singh

Civil Writ Jurisdiction Case No.7795 of 2022

FORUM

Patna High Court

ORDER DATE

21 Jun 2022

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

We notice that in the instant case, notice was issued on 23rd of March, 2022, directing the petitioner to respond on or before 30th of March, 2022. No doubt, petitioner did respond but then the obligation cast upon the officer to afford "7 clear days", as is so stipulated in the section was never afforded to the petitioner. The language of the section is unambiguously clear. There is a mandate to the officer to provide opportunity to the petitioner of filing response and such period being "not less than" seven days. We notice that the respondent authority passed the order on 31st of March, 2022, which also only exhibits undue haste in passing the order against the assessee. We are persuaded by Ms. Smriti Singh, learned counsel for the petitioner, to take the aforesaid view also on the strength of the decision dated 12th May, 2022 rendered by Delhi High Court in W.P.(C) 7385 of 2022, titled as Shri Sai Co- operative Thrift and Credit Society Ltd. Vs. The Income Tax Officer, Ward 43-6. Accounting for all the attending facts and circumstances, the order dated 31.03.2022, passed by respondent no.2, namely, the Deputy/Assistant Commissioner of Income Tax, Circle-1, Patna is set aside with the authority to issue a fresh notice within 15 days in terms of Section 148 of the Income Tax Act, 1961 and complete the appropriate proceedings in accordance with law. Petitioner through learned counsel undertakes to fully co-operate and respond to the notice within the period stipulated under Section 148A of the Act and/or the period specified in the notice. The officer concerned shall pass an order within a period of two months thereafter. The petition stands disposed of in the aforesaid terms. Interlocutory Application(s), if any, stands disposed of. Ashwini/Sujit (S. Kumar, J)

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 580-583

READ ORDER

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