

Amit Kumar alias Amit Sarraf

Civil Writ Jurisdiction Case No.1965 of 2021

FORUM

Patna High Court

ORDER DATE

28 Jul 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

14. In the present case, there is no dispute as to the first and last requisition having been made on 06.06.2017 in the assessment year 2018-19, corresponding to financial year 2017-18. The last of the relevant assessment year in which the requisition was made would be 31.03.2018 and the period of limitation would expire on 31.12.2020. In the present case, no assessment was initiated on or before the said date under Section 153A. The assessments were initiated that too under Section 148 for the assessment years 2013-14 to 2018-19 on 31.03.2021, long after the assessment period had expired. 15. In this context, we have to also notice that Section 153A was introduced in the Act notwithstanding the provisions, inter alia, of Sections 147 and Section 148. Hence, when no proceedings were taken under Section 153A, after the requisition made under Section 132, the Assessing Authority is disabled from proceeding for any assessment. Insofar as assessments pending and abated under Section 153A, after the expiry of 21 months limitation period under Section 153B there can be no proceeding taken under the Act either for regular assessment under Section 143 or under Section 153A or reassessment under Section 147 read with 148. 16. On the above reasoning, writ petitions have to be allowed. Hence, in CWJC No. 1965 of 2021, there shall be a direction to the Department to refund the entire seized cash with interest, as provided under Section 132B(4). The proceedings under Section 147 and 148, as challenged in CWJC No. 17372 of 2021 shall be set aside. 17. The writ petitions are allowed, leaving the parties to suffer their respective costs.

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