Vimlendu Vimal

Civil Writ Jurisdiction Case No.7517 of 2023

FORUM	ORDER DATE	NOTE TYPE
Patna High Court	30 Aug 2023	Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

Insofar as the clause(b) is concerned, the limitation is 10 years from the end of the relevant assessment year, provided the escaped assessment amounts to or is likely to amount to Rs. 50 lakh or more. In the present case, the order under clause (b) of Section 148A itself is passed on 21.04.2023 after the expiry of the 3 year period and the total amounts likely to have escaped assessment is indicated as Rs. 18,25,500/-. 5. Learned Senior Standing Counsel for the Department argued that in fact Annexure-1 is the initiation of the proceedings, which was on 31.03.2023 on introduction of the faceless assessment by way of Section 148A of the Income Tax Act. There is requirement for issuance of notice under Section 148A(a) and an order under clause(d) prior to the notice issued under Section 148A; which provision (Section 148A) is introduced newly under the I.T. Act. The notice under Section 148A is issued within a 3 year period, is the contention. 6. It is to be noticed that Section 148A was brought in by the Finance Act, 2021 with effect from 01.04.2021 when Section 148 also stood substituted. Section 148A deals with the inquiry and the opportunity being provided before issuance of notice under Section 148. However, under Section 149, which also stood substituted by Finance Act, 2021, the limitation provided is for the notice under Section 148 and not of inquiry or opportunity for hearing under Section 148A. 7. The relevant assessment year is 2019-20 and 3 years end on 31.03.2023. There is no notice issued under Section 148 as on date. The proceedings, hence, cannot be continued and we find Annexure-3 order under Section 148(d) to be not enabling the Department to proceed under Section 148. 8. The writ petition stands allowed.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 800-803

READ ORDER

AI DISCLOSURE

AI-assisted preparation: this document was generated with AI using the identified source and may contain extraction, interpretation or omission errors. It has not been independently approved by a practising professional. Verify every material statement against the complete original order.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment, or a substitute for the full order. Applicability depends on the facts, assessment year, statutory version and jurisdiction. Subsequent appeals, stays, reversals and legislative changes have not been checked unless expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.