

Kaushal Kishor Bishwambhar Mishra @ Kaushal Kishore Mishra

Civil Writ Jurisdiction Case No.4303 of 2023

FORUM

Patna High Court

ORDER DATE

06 Sep 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

The petitioner only seeks setting aside of the assessment order for the purpose of objecting to the notice itself. 3. Learned Senior Standing Counsel for the Department, however, specifically refers to the order at Annexure-10 which tabulates various notices issued, which the assessee did not respond to. In fact, the notice under Section 148 of the Income tax Act was preceded by a notice under Section 148A(b) of the Act which was received by the assessee to which also there was no response. 4. Having considered the totality of the circumstances and also the tabulation in the order, we are not convinced that the assessee was not afforded a proper opportunity. In fact, it has to be noticed that though the time granted was of five days till 20.02.2023 and the assessee had asked for seven days, the order was passed only on 03.03.2023. Before that the assessee could have filed an objection and there is no attempt made to file such an objection even after the time provided. 5. In such circumstance, we see absolutely no reason to invoke the extra ordinary jurisdiction for the reason of there being no violation of principles of natural justice. However, we make it clear that the assessee can approach the appellate authority against the order passed, in which event the period between the filing of the writ petition which was on 22.03.2023 till today shall not be considered as delay occasioned and an application for delay shall be considered favourably, at least with respect to that period, especially looking at Section 14 of the Limitation Act; if an appeal is filed within 30 days from today. 6. Writ petition stands dismissed with the aforesaid reservation.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 816-818

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