

Hotel Raj Laxmi

Civil Writ Jurisdiction Case No.16168 of 2021

FORUM

Patna High Court

ORDER DATE

13 Sep 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

In a revision against the intimation under Section 143(1), a due enquiry can be carried out, wherein the assessee would be able to point out the specific instances, of the expenses incurred and its nature, thus enabling exemption from payment of tax to that extent. 12. We also do not see any applicability of the CBDT Circular, relied on by the petitioner. Therein, what has been espoused by the CBDT is the laudable objective of the officers of the Department, not taking advantage of the ignorance of the assessee and providing assistance to the taxpayer, in every reasonable way so as to claim and secure reliefs as provided under the Act. The returns filed herein, by itself does not provide the Assessing Officer with the capacity to enable such a consideration. In fact, the assessee wrongly declared more than 10,00,000/- remuneration paid to the Directors, which is not reflected in the return itself. The Assessing Officer could not have devined that it would be business expenses, entitled to exemption from tax. Even at the stage of rectification, as we observed above, there has to be a process of deduction, by which alone the nature and extent of the business expenses could have been allowed by the Assessing Officer. 13. We, hence, do not find any infirmity in the orders impugned, but however, leave the assessee with the remedy to file an appeal or revision from the intimation under Section 143(1); the delay in which would be condoned on the compelling circumstances of the assessee having pursued his remedy, but under a different provision against a different order; which provision only permitted rectification of mistakes, apparent from the records. The writ petition though rejected, it would be with the above reservation of liberty.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 819-827

READ ORDER

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