

Narayan Kumar

Civil Writ Jurisdiction Case No.9206 of 2023

FORUM

Patna High Court

ORDER DATE

16 Apr 2024

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

The mere statement that the petitioner has not stated the PAN No. does not take the department anywhere, since the PAN No. of M/s Aryan Trading Company was also not supplied to the petitioner by the department. 13. The order does not indicate the name of M/s Aryan Trading Company having been shown in the books of accounts of the petitioner. If purchases were questioned, the department ought to have looked at the invoices of the petitioner to get the PAN Nos. or directed the petitioner to furnish the PAN Nos. of the suppliers; whose transactions could be linked to those supplies/fraudulent transactions of M/s Aryan Trading Company. For that definitely, the transactions of M/s Aryan Trading Company on the various dates, with the value of the invoices, should be available and co-related with the books of accounts of the petitioner. This exercise has not been carried out by the department. 14. There is absolutely no reliable material, which the department has obtained for the purpose of initiating proceedings under Section 148 of the Act. No such material has been supplied to the assessee to get his response on the same. As we noticed above, the report of the Special Commissioner was also not given to the assessee and it is not produced in the present writ proceedings by the department. The petitioner's contention all through has been that he has no business transactions with M/s Aryan Trading Company and he cannot be asked to prove the negative. 15. We find the proceeding under Section 148-A of the Act to be a clear abuse of process of law and not coming within the scope and ambit of Section 148. The assessment order, hence, is set aside and the writ petition stands allowed.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 904-911

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