

Bihar State Minorities Financial Corporation Limited

Civil Writ Jurisdiction Case No.17003 of 2023

FORUM

Patna High Court

ORDER DATE

16 Apr 2024

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

4. We have anxiously considered the contentions raised. Annexure-P/2 is the assessment order passed on 21.03.2022. As has been pointed out by the learned Counsel for the petitioner, in the subsequent assessment years 2016-17, 2018-19 and 2021- 22, the petitioner was granted exemption under Section 10(26BB) of the Income Tax Act. One of the orders, relating to assessment year 2016-17 is produced before us, which is dated 26.11.2019. 5. The counter affidavit does not oppose the contention of the petitioner that it is a Corporation incorporated for the upliftment of the minorities and that it comes squarely under the ambit of Section 10(26BB) of the Income Tax Act. The various paragraphs in the counter affidavit are those extracted from the assessment order. It is also stated that when the Appeal was filed there was no deposit of 20% which was demanded and obtained from the Bank, in which the petitioner maintains an account. 6. As we observed, there was nothing stated as to the petitioner's exemption not been permissible. Admittedly, the petitioner had been granted such exemption under Section 10(26BB) for other years also. The issued raised by the petitioner is one going to the very jurisdiction of the assessing officer to make an assessment ignoring the exemption. That the assessing officer has the jurisdiction to make an assessment cannot at all be doubted, but, however, while proceeding with the enquiry for assessment, the assessing officer went beyond the jurisdiction conferred on him by assessing an entity which is entitled to complete exemption. 7. We are of the opinion that the order has to be set aside and we do so. The amounts recovered on the basis of the Appeal filed will also be refunded with statutory interest. 8. The writ petition stands allowed.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 912-915

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