

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9084 of 2020

St. Paul's Educational Society St. Pauls High School Chakaram, Sri Krishna Nagar, P.S. - Budha Colony, Patna - 800001, Bihar through its Secretary Alice R. Shah, aged about 85 years, Female, Wife of Raphael Shah, resident of Devi Asthan, Chakaram, P.O. GPO, P.S.- Budha Colony, District- Patna, Pin - 800001, Bihar.

... .. Petitioner/s

Versus

1. The Commissioner of Income Tax (Exemption) 2nd Floor, Central Revenue Building, Beer Chand Patel Path, Patna.
2. The Commissioner of Income Tax (Appeal) - 1, Patna, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
3. The Income Tax Officer (Exemption), Ward - 1, 3rd Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Rastogi, Sr. Advocate Ms. Smriti Singh, Advocate
For the Respondent/s	:	Mrs.Archana Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-07-2022

Petitioner has prayed for the following relief(s):-

“(i) For issuance of writ of certiorari or any other appropriate writ, order or direction quashing the order dated 24.12.2019 passed by the Commissioner of Income Tax (Exemption), Patna (Respondent No. 1) whereby the application filed by the petitioner for condonation of delay in filing of Form 9A for the assessment year 2017-18 has been rejected vide order u/s 119(2)(b) of the Income Tax Act (hereinafter referred to as ‘Act’) as there is no delay in filing of Form No. 9A in terms of limitation prescribed under Section 11(2)(c) of the Act and Rule 17(1) of Income Tax



Rules and the impugned order also violates Circulars issued by the Central Board of Direct Taxes (hereinafter referred to as 'CBDT') in this regard and has been passed in teeth of the judgment of Hon'ble Court in the case of Commissioner of Income Tax vs. Nagpur Hotel Owners' Association reported inn (2001) 247 ITR 201(SC).

(ii) For issuance of writ of mandamus directing the Commissioner of Income Tax (Appeal)-1, Patna to dispose of the appeal filed on 07.02.2020 without being influenced by the order of Respondent No. 1 dated 24.12.2019 and as per law with regard to claim of benefit under Section 11(2) of the Act.

(iii) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

Impugned order dated 24th December, 2019 (Annexure-1, page 36) needs to be quashed and set aside, for we find the same to be perverse inasmuch as relevant material of having filed the Form-9A in a physical form, was never considered and dealt with by the authority passing the order in rejecting the petitioner's application seeking condonation of delay.

Shri A.K.Rastogi, learned senior counsel for the petitioner, clarifies that application for condonation of delay was filed only as a matter of an abundant caution, for even though the Form stood filed in a physical form, but the electronic copy could not be uploaded within the stipulated period of time. It is



only in this backdrop, the application was filed.

Be that as it may, we leave this issue to be considered and dealt with by the Assessing Officer.

As such, impugned order dated 24th December, 2019 passed by the Commissioner of Income Tax (Exemption) Patna is quashed and set aside with a direction to the Assessing Officer to consider and decide afresh.

Present petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	28.07.2022
Transmission Date	

