IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4717 of 2018

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Uttar Bihar Gramin Bank, having its Head Officer at Sharma Complex, Kalambagh Chowk, Police Station – Kazi Muhammadpur, District Muzaffarpur, through the Chief Manager (Operatons) namely Sri Anand Mohan Das, sonof Late Dashrath Lal Karn, resident of Mohalla Banglagarh, Police Station LNMU campus, District Darbhanga

.... Petitioner/s

Versus

1. The Principal Commissioner of Income Tax, Muzaffarpur
2. The Assistant Commissioner of Income Tax, Circle 2(1), Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Rastogi

For the Respondent/s : Mr. Rishi Raj Sinha

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-03-2018

Seeking refund of TDS already paid by the petitioner to the Department running to the tune of Rs. 54,04,14,180/- and contending that refund for the year 2016-17 is not being granted this writ petition has been filed under Article 226 of the Constitution seeking refund of the TDS deposited.

It is the case of the petitioner that the amount paid is liable to be refunded and inviting out attention to a judgment of the Bombay High Court in the case of ***Group M. Media India (P) Ltd. Vs. Union of India & Ors. [2016] 289*** CTR (Annexure -12 at page 40), prayer is made that a mandamus be issued for refund of the TDS deposited.

Respondents raised an objection with regard to the maintainability of the petition for the present primarily on the ground that the return has been taken for scrutiny assessment and the matter is pending consideration under Section 143(3) of the Income Tax Act and the petitioner is required to comply with various formalities including furnishing all information under the scrutiny assessment for the year in question and, therefore, at this stage indulgence cannot be made to exercise extra-ordinary jurisdiction of this Court when the matter is pending before the authorities under the scrutiny assessment.

Shri A K Rastogi, learned counsel representing the petitioner has refuted the argument on the issue of scrutiny assessment and placed reliance upon the judgment of the Bombay High Court as indicated hereinabove.

In the facts and circumstances, we are of the considered view that as the matter is pending scrutiny before the competent officer at this stage exercising the discretion under Section 143(1d) of the Income Tax Act, no mandamus can be issued by this Court in the matter. The petitioner may approach the competent authority of the department furnishing all information and we direct the department to complete the scrutiny assessment and thereafter proceed to consider the question of refund in accordance with law.

We may also take note of the fact that at the time of hearing the learned counsel for the petitioner indicated to us that as and when the refund shall be ordered interest on the same shall be paid in accordance with law so that there may not be any monetary loss to the petitioner.

Taking note of all the circumstances cumulatively at this stage we are not inclined to interfere into the matter. We dispose of the writ petition with liberty to the petitioner to approach the authority when the matter is pending for scrutiny assessment.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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