

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9716 of 2024**

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Infrastructure Development Authority, a Government of Bihar undertaking constituted under the Bihar State Infrastructure Development Enabling Act, 2006 having its office at 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-800004 through its Authorized Signatory, Sanjeev Kumar, son of N. K. Prasad, aged about 54 years, Male, resident of R.N. Villa Apartment, M.G. Nagar, Kankarbagh, P.O. Bahadurpur Housing Colony, P.S.- Agam Kuan, Patna - 800026

... .. Petitioner/s

Versus

The Assistant Commissioner of Income Tax, TDS Circle, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate

Ms. Smriti Singh, Advocate

For the Respondent/s : Mrs. Archana Sinha, Sr. SC, Income Tax Dept.

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 06-08-2024**

The writ petition is filed against Annexures-P/1 and P/2 orders, which resulted in rejection of applications filed under Section 197 of the Income Tax Act, 1961. The orders are dated 14.05.2023 and 30.01.2024 respectively and relate to the same issue.

2. The petitioner had sought for deduction of TDS in the interest income earned from banks at NIL, since the petitioner's contention was that the total income justifies such benefit under Section 197. The orders impugned only found that there was a tax demand with respect to the Assessment Year



2018-19, which is pending and hence the deduction at the lower rate/NIL rate is not possible.

3. Learned Senior Counsel appearing for the petitioner would contend that the tax demand for the year 2018-19 has been stayed by the Principal Commissioner of Income Tax till the First Appeal is disposed of.

4. *De hors* the stay ordered; pending First Appeal, we see that the provision under Section 197 only clothes the Assessing Officer with the power to satisfy himself that the total income of the recipient justifies the deduction of Income Tax at any lower rates or at a NIL rate. Hence, a demand pending against the assessee would not clothe the Assessing Officer with the power to summarily reject an application under Section 197. The satisfaction to be recorded under Section 197 is clearly with respect to the total income of the recipient for the subject assessment year, where the deduction is claimed at a NIL rate for the interest income earned from the fixed deposits in banks.

5. We set aside Annexures P/1 and P/2 orders for having decided the issue on extraneous considerations. The application will stand restored before the Assessing Officer and the same will be considered in accordance with law, as



interpreted by us hereinabove.

6. The writ petition stands disposed of.

**(K. Vinod Chandran, CJ)**

**(Partha Sarthy, J)**

P.K.P./-

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CAV DATE	
Uploading Date	07.08.2024.
Transmission Date	

