



Serial No.03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.198/2024 with
MC (WPC) No.207/2024

Date of Order: 26.11.2024

Smt. Ibashisha Rynjah

..... Petitioner

Vs.

1. Union of India, represented by the Secretary, Ministry of Finance, Income Tax Department, New Delhi.
2. The Principal Commissioner of Income Tax, Government of India, Ministry of Finance, Income Tax Department, Shillong-793001, Meghalaya.
3. The Income Tax Officer, ITO W-1, O/o Principal Commissioner of Income Tax, Shillong-7930001, Meghalaya.
4. The State of Meghalaya, represented by the Chief Secretary to the Government of Meghalaya, Shillong.
5. The Superintendent of Police (city), Government of Meghalaya, East Khasi Hills District, Shillong.
6. The Officer-in-charge cum Investigating Officer, Laitumkhrah Police Station, Shillong, Meghalaya.
7. The Branch Manager, Federal Bank Ltd., Shillong, P.B.No.25, Police Bazar, G.S. Road, Shillong, East Khasi Hills, Meghalaya-793001.
8. The Branch Manager, Bank of India, Motinagar Branch, Shillong.
9. Mr. Nirmalya Das Gupta, Newline Laitumkhrah, Opposite Laitumkhrah Presbyterian Church, Shillong-793002.
10. Nitya Paul, Ka Phran Mawrie Complex, Laitumkhrah main road, near Beat House, Shillong-793003.

..... Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge



Appearance:

For the Petitioner

: Ms. S. Parveen, Adv

For the Respondents

: Mr. S. Chetia, Adv for R/2&3
 Mr. N. Syngkon, GA
 Mr. J.N. Rynjah, GA
 Mrs. P.D. Bajurbaruah, Sr.Adv with
 Mr. B.A. Wanswett, Adv for R/7
 Mr. Gopal Chandra Roy, Adv for R/9
 Mr. T.A. Sangma, Adv for R/10

i)	Whether approved for reporting in Law journals etc.:	Yes
ii)	Whether approved for publication in press:	No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The facts as disclosed in the records are these.

The petitioner is working as Director in the department of Soil, Government of Meghalaya. She is a resident of Khasi Hills. She claims to be a member of the scheduled tribe as defined under Article 366(25) of the Constitution of India, residing in the area in Part II of the table appended to paragraph 20 of the Sixth Schedule to the Constitution. She claims exemption from income tax under Section 10(26) of the Income Tax Act, 1961.



The facts that we are called upon to adjudicate cannot be and are impossible to resolve in the exercise of our writ jurisdiction. They are glaring. According to the petitioner, the respondent No.9, a stock broker, mutual fund agent, empanelled evaluator/valuer in several banks practised fraud on her by, inter alia, opening and maintaining fake bank accounts, making fake investments in her name, creating fictitious e-mail account in her name, filing income returns etc. by forging her signature so as to portray a large income and investment on her part. However, the petitioner admits of having some investment in her name out of her own income.

Although the petitioner is not an assessee under the Income Tax Act, 1961, the income tax department was activated by the respondent No.9 to make the petitioner an assessee. As a result of all this, the petitioner has become involved in income tax proceedings. She has also become involved in criminal proceedings.

Broadly, in this writ petition, the writ petitioner wants quashing of these proceedings.

We were shown two assessment orders one dated 30th March, 2022 for the assessment year 2014-15 and the other of the same date for the assessment year 2015-16, concerning the petitioner.



First of all, the Income Tax Act, 1961 provides very detailed machinery for investigation and determination of income and its assessment to tax. It also provides a structured system for assessment, preferment of appeal from such assessment, revision and so on. The writ petitioner has to avail of that remedy which in our opinion is efficacious. Secondly, as a writ court we should not exercise jurisdiction to adjudicate upon highly disputed facts by evaluating very voluminous evidence, which is involved here.

We find from the records (Annexure-18 at page 108 of the writ petition) that on 11th April, 2021 (the date appears to be wrong, according to the learned counsel for the petitioner, it should be 16th April, 2022), the petitioner assessee filed an application for revision under Section 264 of the said Act for the assessment year 2014-15. On 9th June, 2022, she withdrew it.

Now, learned counsel for the petitioner submits that her client had no hand in the withdrawal of that application and that it was the handy work of the respondent No.9.

We are not going into the correctness of the allegations made against the respondent No.9, narrated hereinabove.



We are of the view that considering the gravity of the dispute, this application for revision under Section 264 of the said Act be treated as pending. We set aside the alleged withdrawal of the Section 264 application purported to have been made by the letter dated 9th June, 2022.

We direct the income tax authorities to hear the petitioner, the respondent No.9 and other interested parties, if any and dispose of the Section 264 application by a reasoned order within three months of communication of this order. The petitioner is given liberty to make an application before the income tax authorities for any interim order pending this proceeding under Section 264 of the said Act. All points are kept open before the income tax authorities.

This writ petition and the miscellaneous application [MC (WPC) No.207 of 2024] are disposed of.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice