FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5364/2014
(VIDYA SAGAR GARG & OTHERS **VERSUS** THE COMMISSIONER OF INCOME TAX-I, NAGPUR & OTHERS)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri H.S. Chitaley, counsel for the petitioners.
Shri H.Marathe h/f Shri A. Parchure, counsel for the respondents.

CORAM : B.R. GAVAI AND
MRS. MRIDULA BHATKAR, JJ.

DATE : FEBRUARY 27, 2015.

The petitioners have approached this Court being aggrieved by the notice issued by the Assessing Officer and also for various other reliefs including payment of compensation and release of assets belonging to the petitioner nos.2 and 3 seized on 18th and 19th of January 2011. However, since the petitioners are only seeking to challenge the notice issued by the Assessment Officer, we are not inclined to entertain the petition in that regard. However, we make it clear that the petitioners would be entitled to raise all their objections including the limitation, etc., which would be considered by the Assessment Officer in accordance with law.

The learned counsel for the petitioners further submits that the returns would be filed in pursuance of the notice issued by the respondents within a period of ten days from today.

Insofar as the grant of compensation to the petitioners is concerned, we find that at this stage unless assessment orders are passed, it cannot be held that any action of the respondents is illegal. We, therefore, reserve the right of the petitioners to take such proceedings as are available in law for compensation, if there is some material in favour of the petitioners to show that any of the actions taken by the respondents are not in accordance with law.

Insofar as the prayer regarding the release of the assets belonging to the petitioner nos.2 and 3 is concerned, the learned counsel for the respondents states that the respondents have no objection for releasing the said assets subject to the condition that the petitioner nos.2 and 3 file an undertaking to the effect that in the event the Assessment Officer finds any amount to be payable by the petitioner nos.2 and 3, the same shall be paid within the period of appeal unless the appellate authority does not stay the said payment.

In that view of the matter, the petition is partly allowed. The respondent nos.1 and 2 are directed to release the assets belonging to the petitioner nos.2 and 3 seized on 18^{th} and 19^{th} of January, 2011 subject to the petitioner nos.2 and 3 filing an undertaking that in the event the Assessment Officer finds any amount due and payable, the same shall be paid within the appeal period unless there is an order of stay by the Appellate Authority. On the undertaking being filed by the petitioner nos.2 and 3, the assets be released within a period of three days thereafter.

Since the matter was *sub-judice* before this Court, the assessment proceedings could not proceed. Therefore, the period for completion of assessment shall stand extended for the period for which this petition was pending before this Court. Order accordingly. No costs.

JUDGE **JUDGE**

APTE