THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No.1148 OF 2014

ORDER: (Per Hon'ble Sri Justice R. Subhash Reddy)

This Contempt Case, under Section 12 of the Contempt of Courts Act, 1971, is filed alleging that the respondent has wilfully and intentionally disobeyed the directions issued by this Court in the order, dated 29.07.2013, passed in W.P.MP.No.21446 of 2013 in W.P.No.17625 of 2013.

Petitioner has filed the aforesaid Writ Petition challenging the notice, dated 27.03.2013, reopening his assessment for the Assessment Year 2006 – 07 under the provisions of Income Tax Act, 1961. This Court, initially on 21.06.2013 has passed the following order:

> "Counter affidavit be filed within four weeks from date and reply be filed within two weeks thereafter.
>
> In the meantime, it will be open for the petitioner to file further returns and if the returns are filed, the department is free to proceed in accordance with law after service of notice and the petitioner may participate in the hearing without prejudice to the rights and contentions raised in this petition, and pass appropriate orders."

Subsequently, by impugned order, dated 29.07.2013, this Court, while permitting the respondent to pass assessment order pursuant to the notice impugned in the Writ Petition, directed that if any such order is passed, the same should not be given effect to until further orders.

In this Contempt Case, it is the grievance of the petitioner that, for the assessment year 2012 – 13, though an amount of Rs.3,58,770/- is to be refunded, disobeying the orders of this Court, the respondent has adjusted such amount against the Assessment Year 2006 - 07.

Counter affidavit is filed by the Deputy Commissioner of Income Tax. In the counter, while denying the various allegations made by the petitioner, it is stated that there is no disobedience either wilful or wanton and that the AST Software programme resulted in automatic adjustment of the refund amount of Rs.3,58,770/- for the assessment year 2012 – 13 against the pending tax demand amounting to Rs.7,39,969/- raised for the assessment year 2006 – 07. It is also stated that after coming to know of the same, they have reversed and refunded such amount.

When the matter was called on earlier occasion, it was argued by the learned counsel for petitioner that even for the assessment year 2013 – 14 also though an amount of Rs.1,28,160/- is to be refunded, the same was withheld, which runs contrary to the directions of this Court.

On instructions, it is submitted by the learned counsel for respondent that even for the assessment year 2013 – 14 reversal order is already passed and refund will be made for an amount of Rs.1,28,160/-.

It is true that by virtue of the orders passed by this Court, the respondent ought not to have adjusted the amount, but in view of the averments in the counter, we are of the view that there is no wilful disobedience to the directions issued by this Court. As it is pleaded by the learned counsel for petitioner that the amount to the tune of Rs.1,28,160/- to be refunded for the assessment year 2013 – 14 is not yet refunded, we deem it appropriate to close the Contempt Case by directing the respondent to refund the said amount within a period of six (6) weeks from the date of passing of the reversal order.

Subject to the above, the Contempt Case is closed. Miscellaneous Petitions, if any, pending in this Contempt Case, shall stand closed. No costs.

R. SUBHASH REDDY, J

CHALLA KODANDA RAM, J

November 13, 2015

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THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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(Per Hon'ble Sri Justice R. Subhash Reddy)

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