

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.32748 of 2015

ORDER:

Heard the learned counsel for the petitioner, learned Standing Counsel for the 6th respondent and the learned Government Pleader for Revenue for respondents 1 to 5.

Though the petitioner has questioned two distraint orders issued by the 4th respondent, dated 14-08-2015 and 11-05-2015, after hearing the learned counsel for the parties it is evident that the amount due and payable by the petitioner appears to be to the tune of Rs.21,07,801/- towards principal amount for the years 1994-95 and 1995-96 and the said principal amount also carries interest at 12% per annum i.e., Rs.43,53,966/- and it is worked out upto 15-05-2015. Thus, the distraint order, dated 11-05-2015 is only with respect to the principal amount and other distraint order, dated 14-08-2015 covers both the principal as well as the interest.

The issue with respect to the liability of petitioner for payment of the said amount was questioned by the petitioner before this Court in W.P.No.8442/2007, which was heard and disposed on 28-08-2014, wherein one of the contentions raised was that the debt cannot be recovered under the Revenue Recovery Act, as it is time barred. However, this court in the said writ petition held that the action initiated on the basis of re-assessment order, dated 31-03-2001 passed by the 1st respondent therein and issuance of suo motu proceedings by the 2nd respondent therein on 31-03-2004 was within the three years limitation and as such, there was no impediment in recovering the amounts, as they were not barred by limitation. The order in the aforesaid said writ petition having become final, the issue of limitation once again raised in this writ petition cannot be re-adjudicated.

Alternatively, learned counsel for the petitioner submits that the entire principal amount was paid vide acknowledgment of the 6th respondent, dated 10-08-2015. However, having paid the principal amount, once again a huge claim for interest is made. Hence, the same is questioned in this writ petition.

Learned Standing Counsel for the respondents states that having paid the principal amount, the interest liability automatically accrues on the said principal amount, which the petitioner has to pay and as such, the said entire claim is neither barred by time nor is otherwise affected.

Learned counsel for the petitioner does not seriously press the said contention except seeking time for the petitioner to pay interest amount in two equal instalments.

Learned Standing Counsel also has no objection for the same.

Hence, the writ petition is disposed of directing that two impugned distraint orders shall remain in abeyance for a period of six months subject to the petitioner paying half of the amount of interest on or before 31-01-2016 and balance half together with further interest from 15-05-2015 on or before 30-04-2016. In default of complying with any of the conditions as aforesaid, the impugned distraint orders shall be enforced by the respondents in accordance with law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 02-11-2015

Prv

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