IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 16162 of 2014(O&M)
Date of Decision: 17.03.2015

M/s Competent Authority-cum-Chief Administrator, Patiala
..Petitioner

versus

Tax Recovery Officer and others ..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE G.S.SANDHAWALIA.

Present : Mr. Ravi Shankar, Advocate, for the petitioner.
Ms. Savita Saxena, Advocate, for respondent Nos.1 and 3.
Mr. Anil Kumar Ahuja, Advocate, for respondent No.2.
Mr. Raj Shekhar, Advocate, for respondent No.4.

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S.J.VAZIFDAR A.C.J. (Oral)

Rule. Rule returnable and heard forthwith.

2. The petitioner has sought a writ of mandamus directing respondent No.1 to refund the amount seized by him under section 226(3) of the Income Tax Act, 1961 (for short 'the Act') and also an order directing respondent Nos. 1 and 2 i.e. Oriental Bank of Commerce and ICICI Bank Ltd. to refrain from releasing the funds.

3. Respondent No.1 issued an order under Section 226(3) of the Act in respect of the alleged dues of respondent No.4-PUDA. The petitioner is not concerned with the dues of respondent No.4.

4. The confusion has arisen on account of the fact that the Administrator of respondent No.4-PUDA was also appointed as the competent authority to recover the regularization dues in respect of the unauthorized colonies on behalf of the State of Punjab. Such dues have been kept in separate accounts some of which are referred to as 'Escrow Accounts'. The same are for the benefit of the petitioner as the agent acting on behalf of the State of Punjab. Such amounts actually belong to the State of Punjab and not to respondent No.4.

5. The first respondent does not even contend that if the amounts were collected for and on behalf of the petitioner-State of Punjab, the Tax Department would have any claim in respect thereof qua the dues of respondent No.4. Respondent No.1 infact contends that it never sought to receive amounts due to the petitioner-State of Punjab towards satisfaction of the fourth respondent's tax dues.

6. In the circumstances, the petition is disposed of by setting-aside the order passed by respondent No.1 in so far as the same relates to the dues of the petitioner kept in the escrow or other accounts opened by the Administrator of respondent No.4 but for and on behalf of the petitioner-State of Punjab. The impugned order passed by respondent No.1 will not operate in respect of any other accounts maintained in any name which are for the benefit of the petitioner-State of Punjab. Further, the order passed by respondent No.1 shall also not operate in respect of any accounts, fixed deposits or other investments made out of the accounts which belonged to the petitioner-State of Punjab. The order shall also not operate in respect of any accretion to the amounts.

The amounts shall be refunded by respondent No.1 within 12 weeks from the receipt of a communication by the petitioner specifying the details of the accounts kept by respondent No.4 on behalf of the petitioner and in the name of the petitioner itself.

We would not express any opinion regarding the question of interest including as to whether or not the interest is payable or not to the petitioner and if payable as to which of the respondents is liable to pay the same. The petitioner is given liberty to adopt appropriate proceedings for interest. Mere furnishing of PAN Number of respondent No.4 would not be determinative as to whether the amounts belonged to the petitioner or respondent No.4.

The petition is accordingly disposed of.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S.SANDHAWALIA)
JUDGE

17.03.2015
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