IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21025 of 2015

Date of Decision: 17.11.2015

Dr. Harinder Mittra

....Petitioner.

Versus

Commissioner of Income Tax (Appeals)-2, Jalandhar and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Mr. Rohit Sud, Advocate for the petitioner.

Mr. Vivek Sethi, Advocate for the revenue.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order dated 8.9.2015 (Annexure P-6) passed by respondent No.1 dismissing the stay application against the recovery of demand of ₹ 39,54,840/- for the assessment year 2012-13.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The e-filing return was filed by the petitioner on 14.9.2012 declaring income at ₹ 20,23,210/-. The said return was processed under Section 143(1) of the Income Tax Act, 1961 (in short "the Act") on 4.1.2013 at the same income. The case of the petitioner was selected for scrutiny and notice

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under Section 143(2) of the Act was issued. The Assessing Officer framed the assessment under Section 143(3) of the Act at ₹ 1,14,19,010/- vide order dated 25.3.2015. Feeling aggrieved, the petitioner filed an appeal before respondent No.1. The petitioner filed two applications dated 23.4.2015 (Annexure P-2 Colly) for stay, one before the Assessing Officer and the other before respondent No.1. The Assessing Officer vide order dated 15.6.2015 (Annexure P-3) directed the petitioner to deposit 50% of the disputed demand. The appeal was fixed for hearing on 27.8.2015 and notice dated 18.8.2015 (Annexure P-1) was issued to the petitioner in this regard. However, the main appeal was argued before respondent No.1 on 27.8.2015 and the petitioner also filed written submissions, Annexure P-4, on the said date. Thereafter, the case was adjourned to 7.9.2015 for further arguments. On 7.9.2015, the appeal was again heard on merits and the petitioner also made further written submissions dated 7.9.2015 (Annexure P-5). Respondent No.1 vide order dated 8.9.2015 (Annexure P-6) dismissed the stay application of the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that out of the demand of ₹ 39,54,840/-, a sum of ₹ 20,00,000/- has already been deposited by way of bank draft in terms of order dated 1.10.2015 passed by this Court. The cheque of the said amount has been issued by the Deputy Registrar (Accounts) of this Court in favour of respondent No.2. It was further submitted that the arguments were heard by respondent No.1 on 27.8.2015 and again on 7.9.2015 and even the written submissions, Annexures P-4 and P-5, respectively, were filed. It was prayed that in such circumstances, the recovery of the balance amount be stayed and respondent No.1 be directed to decide the appeal within a

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time bound frame.

4. Learned counsel for the revenue opposed the prayer made by the learned counsel for the appellant and prayed for dismissal of the writ petition.

5. On 14.10.2015, learned counsel for the petitioner had produced a demand draft for ₹ 20,00,000/- on account of part payment of tax liability to show his bonafide, thereupon, respondent No.2 was restrained from taking any coercive steps for recovery of the remaining amount. After hearing learned counsel for the parties and keeping in view the totality of the facts and circumstances of the case coupled with the fact that the petitioner has already deposited a sum of ₹ 20,00,000/- as per order dated 14.10.2015, the present writ petition is disposed of by making the interim order dated 14.10.2015 absolute. Further respondent No.1 is directed to decide the appeal of the petitioner expeditiously preferably within three months.

(AJAY KUMAR MITTAL)
JUDGE

November 17, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**

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