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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 27th February, 2015

+ W.P.(C) 1961/2015

BIKRAM SINGH

..... Petitioner

Through: Mr.J.K.Mittal and Mr.Rajveer Singh,
Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX

..... Respondent

Through: Ms.Suruchi Aggarwal Sr.Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K.GAUBA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. Issue notice.
2. Ms.Suruchi Aggarwal, Advocate accepts notice on behalf of respondent.
3. The petitioner is aggrieved by a letter issued to the Oriental Bank of Commerce dated 24.02.2015, by which the bank was required under Section 226(3) of the Income Tax Act, 1961 (hereinafter referred "the Act"), to release an amount of ₹1,67,16,160/- (plus interest) payable to the respondent/Income Tax Department pursuant to the assessment completed on 13.03.2014 for Assessment Year (AY) 2011-12.

4. The relevant facts are that the petitioner's assessment returns for the AY 2011-12 were considered and order made, pursuant to which the Assessing Officer (AO) brought to tax a sum of ₹4,39,71,545/-. Whilst doing so the AO added a sum of ₹3,25,50,000/- under Section 68 of the Act, after holding that the explanation furnished by the assessee was unacceptable. The assessee/writ petitioner preferred an appeal to the CIT (Appeals) on 07.04.2014, which is pending.

5. During the pendency of the appeal, the AO issued demand under Section 156 of the Act claiming the tax dues. The assessee sought for stay of the demand under Section 220(6). The concerned officer, Deputy Commissioner Income Tax, on 03.02.2015 communicated that, unless 50% of the demand was complied with and the corresponding amount not deposited, even the stay application cannot be entertained. In this ground eventually on the petitioner's failure to deposit the said sum, the impugned order more in the nature of a garnishee order was made requiring the bank to makeover and pay a sum of ₹1,67,16,160/- and restrictions have been imposed on withdrawal from petitioner's account.

6. We have heard the counsel for the parties and are of the opinion that at this stage we cannot express any opinion on the merits of the appeal and/or feasibility of the demand. At the same time, the Court is not oblivious to the circumstance that if any order is made, the assessee/petitioner is likely to suffer irreparable loss. Balancing the hardship, the Court is of the opinion that the respondent should vacate the garnishee order/letter to the extent of 50%, keeping in mind the condition imposed in the letter dated 03.02.2015. In other words, the bank is directed to – within next four days ensure that the letter addressed to the bank on

24.02.2015 is withdrawn and a suitable letter directing the payment of half the amount is issued at the same time. Consequently, the assessee and the bank would be at liberty to service the petitioner's account to the extent of the balance. The CIT (Appeals) is directed to hear and consider the matter on the merits and render final decision thereon at the earliest preferably in four months from today. This arrangement shall be applicable till the disposal of the appeal by CIT (Appeals).

7. It is open to the petitioner to deposit the corresponding amount of 50% of the sum (i.e. ₹1,67,16,160/-) demanded with the Income Tax Department and seek necessary variation.

8. The writ petition is disposed of accordingly.

9. Copy of the order be given dasti under the signature of Court Master.

S. RAVINDRA BHAT, J

R.K.GAUBA, J

FEBRUARY 27, 2015

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