IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2016

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.18018 of 2014

Dr.Kamala Selvaraj
Prop. G.G. Hospital,
6-E, Nungambakkam High Road,
Chennai-600 035. ... Petitioner

Vs.

1.The Commissioner of Income Tax, Central-II,
No.46, Mahatma Gandhi Road,
Chennai-600 034.

2.The Director General of Investigation-Income Tax,
No.46, Mahatma Gandhi Road,
Chennai-600 034.

3.The Assistant Commissioner of Income Tax,
Central-II(5), No.46, Mahatma Gandhi Road,
Chennai-600 034. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to release the seized jewellery worth Rs,7,27,78,150 and cash of Rs.1.80 crores along with 18% interest from the date of seizure i.e. 24.11.2011 till the date of return in exercise of powers under Section 132 B of the Income Tax Act within a period of one week from the date of order.

For Petitioner : Mr.S.Sridhar

For Respondents : Mr.T.Pramodkumar Chopda
Standing Counsel for IT cases.

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ORDER

This writ petition is filed seeking a direction to the respondents to release the seized jewellery worth Rs,7,27,78,150/- and cash of Rs.1.80 crores along with 18% interest from the date of seizure i.e. 24.11.2011 till the date of return in exercise of powers under Section 132 B of the Income Tax Act within a period of one week from the date of order.

2. Though the writ petition is posted along with connected writ petition in W.P.No.34638 of 2013, it could not be taken up in view of paucity of time.

3. The learned counsel appearing for the petitioner submits that in view of the specific stand taken in paragraph 15 of the counter affidavit, the writ petition may be disposed of, particularly, taking into consideration the age of the petitioner, who is said to be 74 years old.

4. The learned Standing Counsel appearing for the respondents submits that if the petitioner is ready and willing to furnish irrevocable bank guarantee equivalent to the value of the jewellery seized, it can be released as mentioned in paragraph 15 of the counter affidavit filed by the respondents. The learned Standing Counsel also submits that on the petitioner furnishing irrevocable bank guarantee equivalent to the value of the seized jewellery, the same may be released.

5. Considering the submissions made, the averments made in paragraph 15 is recorded hereunder.

> "15. Without prejudice to the above contentions it is submitted that pending disposal of all the writ petitions, if the petitioner is ready to furnish an irrevocable bank guarantee equivalent to the value of the seized jewellery based on a fresh valuation report as per the provisions of the Act till the disposal of all the above writ petitions, the seized jewellery can be released to the petitioner."

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6. In the light of the same, the writ petition stands disposed of by directing the respondents to release the seized jewellery on condition that the petitioner furnishing irrevocable bank guarantee equivalent to the value of the jewellery seized based upon a fresh valuation report. The respondents shall intimate the petitioner on the bank guarantee to be furnished by her based upon fresh valuation report within

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a period of two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner shall furnish irrevocable bank guarantee for the aforesaid value within a further period of two weeks. On such compliance by the petitioner, the respondent shall release the jewellery seized within a further period of two weeks. This order is passed without prejudice to the contentions in the other writ petition in W.P.No.34638 of 2013.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

raa

To

1. The Commissioner of Income Tax, Central-II,
   No.46, Mahatma Gandhi Road,
   Chennai-600 034.

2. The Director General of Investigation-Income Tax,
   No.46, Mahatma Gandhi Road,
   Chennai-600 034.

3. The Assistant Commissioner of Income Tax,
   Central-II(5), No.46, Mahatma Gandhi Road,
   Chennai-600 034.

+1cc to Mr.S.Sridhar, Advocate, S.R.No.50922
+1cc to Mr.T.Pramodkumar Chopda, Advocate, S.R.No.50826

W.P.No.18018 of 2014

RSK(CO)
CA(08/09/2016)

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