

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.25484 of 2003

M.Sekar

.. Petitioner

Vs

1.The Assistant Commissioner of Income Tax,
Central Circle-III, Coimbatore.

2.Commissioner of Income Tax,
[Appeal-III],
Coimbatore.

3.Union Bank of India,
Gandhipuram Branch,
224, 100 Ft. Road,
Tatabad, Coimbatore.

Rep by its Senior Manager ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the respondents from invoking the Bank Guarantee of Rs.25,03,250/- issued by Union Bank of India, Gandhipuram Branch, Coimbatore, the 3rd respondent herein, in favour of Government of India [Commissioner of Income Tax], in the case of the petitioner Mr.M.Sekar, pending disposal of the stay application in the appeal preferred by the Petitioner herein before the 2nd respondent challenging the Block Assessment Order dated 12.08.2003 of the 1st respondent.

For Petitioner : Mr.P.M.Subramaniam
For R1 and R2 : Mr.T.Pramod Kumar Chopda
For R3 : Mr.K.Rajasekaran

O R D E R

Heard Mr.P.M.Subramaniam, learned counsel appearing for the petitioner; Mr.T.Pramod Kumar, learned counsel appearing for the respondents 1 and 2 and Mr.K.Rajasekaran, learned counsel appearing for the 3rd respondent.

2. The petitioner has filed this Writ Petition seeking
direction to forbear the respondents from invoking the Bank

Guarantee of Rs.25,03,250/- issued by the 3rd respondent herein, in favour of the Commissioner of Income Tax, pending disposal of the stay application in the appeal by the Petitioner before the 2nd respondent, challenging the Block Assessment Order dated 12.08.2003 passed by the 1st respondent.

3. The petitioner filed an appeal before the Assessing Authority against the Block Assessment Order dated 12.08.2003 at the relevant point of time i.e., in the year 2003. The stay petition was pending before the Commissioner of Income Tax [Appeals] and the Assessing Officer attempted to encash the Bank Guarantee, which necessitated the petitioner to approach this Court.

4. However, at the time, when the Writ Petition was entertained on 12.09.2003, no interim order was granted. Subsequently, when the stay petition came for hearing on 20.08.2004, learned counsel for the petitioner submitted that the petition has become infructuous and the petition stands dismissed.

5. Today, when the matter is taken up, learned counsel for the petitioner submitted that he does not have any written instruction from the petitioner. The Department also does not have any written instruction. To keep the Writ Petition pending after so many years, is not going to serve any purpose. At this distance of time, the appeal would have been disposed of.

The Writ Petition stands closed, with liberty to the petitioner to workout his rights in the manner known to law.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner of Income Tax,
Central Circle-III, Coimbatore.

2.Commissioner of Income Tax,
[Appeal-II],
Coimbatore.

3.Senior Manager,
Union Bank of India,
Gandhipuram Branch,
224, 100 Ft. Road,
Tatabad, Coimbatore.

1 cc to Mr.T.Pramodkumar, Advocate, 54359

W.P.No.25484 of 2003

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kra 17.10.2016



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