IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3635 of 2016

Date of Decision: 23.2.2016

Narender Kumar Sekhri

....Petitioner.

Versus

Commissioner of Income Tax-II, Jalandhar and another

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.

PRESENT: Mr. S.K. Mukhi, Advocate with
Mr. Rajiv Sharma, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has challenged the action of the respondents in not releasing the jewellery seized in 1994 under Section 132B of the Income Tax Act, 1961 (in short "the Act") weighing 543.800 gms as the petitioner has already discharged his liability.

2. A search and seizure operation was conducted at the business premises and various family members of the petitioner on 9/16.8.1994 under Section 132A of the Act. The cash amounting to ₹ 34,500/- and entire jewellery of the petitioner weighing 543.800 gms valuing ₹ 2,39,272/- lying in locker No. 2122 at Punjab National Bank, Sansad Marg, New Delhi was seized on 16.8.1994. The petitioner filed

his return on 30.11.1995 for the assessment year 1995-96 declaring income at ₹ 1,62,750/-. The Assessing Officer vide order dated 16.3.1998 (Annexure P-1) assessed the income at ₹ 5,88,829/- and the seized cash amount of ₹ 34,500/- and jewellery valuing ₹ 2,39,272/- were added as the undisclosed income. Feeling aggrieved, the petitioner filed an appeal before the Commissioner of Income Tax (Appeals), who vide order dated 14.1.1999 (Annexure P-2) deleted both the additions made by the Assessing Officer. Against the order, Annexure P-2, the revenue filed an appeal before the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (hereinafter referred to as "the Tribunal"). The Tribunal set aside the order to the file of the Assessing Officer. In pursuance thereto, the Assessing Officer vide order dated 20.9.2005 (Annexure P-3) accepted the surrender of the petitioner subject to no penalty under Section 271(1)(c) of the Act and assessed the total income at ₹ 4,02,750/- including surrender and created a demand of ₹ 1,59,690/-. The Income Tax Officer passed an order under Section 154 of the Act for computing the balance demand in lieu of the final assessment order dated 20.9.2005 (Annexure P-3) by creating an additional demand of ₹ 57,531/- and sent notice of demand dated 20.12.2005 (Annexure P-4) under Section 156 of the Act. The petitioner paid the said amount vide bank challan dated 27.1.2006 (Annexure P-5). Thereafter, the petitioner sent a letter dated 9.12.2015 (Annexure P-6) to respondent No.1 for release of the jewellery seized during the course of search on 16.8.1994, but no response has been received. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a letter dated

9.12.2015 (Annexure P-6) to respondent No.1, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.1 to take a decision on the letter dated 9.12.2015 (Annexure P-6), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order. It is further directed that in case it is found that the petitioner is entitled to the release of jewellery, the same be released to him within next one month in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

February 23, 2016 **(RAJ RAHUL GARG)**
gbs **JUDGE**