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

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\+ **W.P.(C) 770/2016**

ICICI BANK LTD. ..... Petitioner

Through Mr M.P. Devnath, Mr Abhishek and Mr Yogendra Aldak, Advocates.

versus

COMMISSIONER, TRADE & TAXES.
DELHI & ANR. ..... Respondents

Through

CORAM:
HON'BLE DR. JUSTICE S.MURALIDHAR
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **29.01.2016**

CM 3303/2016 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 770/2016 & CM 3302/2016 (stay)

3. Notice. Counsel for the Respondent accepts notice.

4. The Petitioner before this Court is ICICI Bank Ltd, a banking company engaged in the business of banking including the provision of financial services. Respondent No.2, i.e. the Value Added Tax Officer (VATO) Ward-206, raised a demand on the Petitioner regarding auction-sale of motor

vehicles, purchases of which were financed by the Petitioner and which were repossessed by ICICI Bank on account of default in repayment of the loan.

5. The demands were confirmed by the Objection Hearing Authority ('OHA') by an order dated 23rd April 2012. Against the said order of the OHA, an appeal was preferred by the Petitioner before the Appellate Tribunal Value Added Tax ('AT'). By the order dated 30th December 2015, the AT dismissed the appeal of the Petitioner. It is stated that the time period for filing a further appeal to this Court has not expired as yet and the Petitioner proposes to file an appeal within such time.

6. Meanwhile, on 21st February 2015, the Petitioner had deposited 40% of the value added tax in the sum of Rs. 6,71,80,162/- and 10% of the penalty in dispute in the sum of Rs. 2,30,26,975/- (aggregating to the sum of Rs. 9,02,07,137). After the dismissal of the appeal by the AT, the Petitioner has deposited a further sum of Rs. 10 crores on 22nd January, 2016.

7. Mr M.P. Devnath, learned counsel for the Petitioner, states that yesterday i.e. 28th January, 2016 a further sum of Rs. 1 crore has been paid. The total demand was of Rs. 39,88,64,776/- which included the tax, interest, penalty and other amount of Rs. 6,44,623 which has since been remanded to the VATO. After accounting for a sum of Rs. 20,02,07,137 that has been paid thus far by the Petitioner, the balance works out to Rs. 19,80,13,016.

8. In the meanwhile, pursuant to the dismissal of the Petitioner's appeal by the AT, the VATO issued a recovery notice dated 6th January, 2016 asking

the Petitioner to deposit the balance of the confirmed demand by 20th January 2016 failing which he would proceed to issue a warrant of arrest under Section 138 and attach the Petitioner's Bank accounts in terms of Sections 138,140 and141 of the Delhi Land Reforms Act, 1954 (DLRA).

9. Despite the Petitioner requesting the VATO by its letter dated 13th January, 2016 to keep the demand in abeyance, Respondent No. 2 proceeded to attach the bank account No. 000405000431 of the Petitioner. It is in these circumstances that the Petitioner has approached this Court for lifting of the attachment of the aforementioned bank account.

10. It is submitted by Mr Devnath that the extreme step of attaching the bank account of the Petitioner ought not to have been taken as the Petitioner is still in the process of filing an appeal against the order of the AT, in which it would be seeking a stay of any further recovery of the demand.

11. Mr Satyakam, learned counsel for the Respondent, on the other hand, submitted that as long as an appeal has not been filed as yet by the Petitioner, the VATO was justified in invoking the provisions of the DLRA to recover the confirmed tax demand.

12. The Court is of the view that the Respondent No.2 ought to have taken note of the fact that the Petitioner has thus far paid a sum of over Rs. 20 crores of the total demand of around Rs. 39.88 crores. The time period for filing an appeal by the Petitioner against the order of the AT is yet to expire. In the circumstances, the extreme step of attaching the Petitioner's bank account was not warranted.

13. Accordingly, it is directed that subject to the Petitioner filing an appeal against the order of the AT within the period of limitation which (it is stated in para 14 of the petition) will expire on 28th February, 2016 along with an application for stay, the attachment ordered by the Respondent No.2 of the Petitioner's Bank Account No. 000405000431, shall stand lifted forthwith and no further coercive steps shall be taken against the Petitioner for recovery of the tax demand in question. It is, however, made clear that if the Petitioner does not file an appeal against the order dated 30th December 2015 of the AT by 28th February 2016 along with an application for stay, this order will come to an end forthwith and the attachment of the Petitioner's aforementioned bank account will revive.

14. The petition is disposed of in the above terms.

15. Order *dasti* under the signature of Court Master.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JANUARY 29, 2016
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