IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3713 OF 2017

Sinhgad Technical Education .. Petitioner
v/s.
Deputy Commissioner of Income Tax,
Central Circle 2(2), Pune & Ors. .. Respondents

Mr. J.D. Mistri, Senior Counsel a/w Mr. Niraj Sheth i/b Nitin Dhumal and Anant Dobe for the petitioner
Mr. Sham Walve for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.
DATED : 5th APRIL, 2017

P.C.

1. Mr. Mistri, learned Senior Counsel appearing for the petitioner tenders a draft amendment which seeks to bring on record events subsequent to the filing of the petition. Mr. Walve, learned Counsel for the Revenue has no objection to the proposed amendment. Accordingly, amendment is allowed. Amendment to be carried out within one week from today. Re-verification is dispensed with.

2. This petition under Article 226 of the Constitution of India challenges the Notices dated 24th March, 2017 issued by the Assessing Officer under Section 226(3) of the Income Tax Act, 1961 (the Act) as well as the action of the respondent Revenue in collecting an amount of

Rs.3.80 crores from the bank accounts of the petitioner on 27th March, 2017.

3. The genesis of this petition is an earlier writ petition being Writ Petition No.1515 of 2017 filed by the petitioner challenging the order dated 15th January, 2017 passed by the Director General of Income Tax (Investigation) relating to Assessment Years 2008-09 to 2014-15. The above order dated 15th January, 2017 had rejected the petitioner's application for not being treated as an assessee for default in respect of the assessment orders for the subject assessment years which were pending in appeal before the Commissioner of Income Tax (Appeals) [CIT(A)]. The aforesaid petition was disposed of by order dated 8th February, 2017 of this Court while recording the fact that the order dated 15th January, 2017 impugned therein, had granted stay of the recovery of Rs.141.76 crores subject to the petitioner's depositing the amount of 15% of the aforesaid amount i.e. Rs.21 crores. This 15% of the aforesaid demand was directed to be deposited in installments of Rs.1.75 crores per month beginning with 25th January, 2017 till the decision of the CIT(A). However, the order dated 15th January, 2017 impugned therein also further records the fact that the assessee's appeals which are pending before the CIT(A) would be decided by the

month of March, 2017 and the assessee will only be required to pay Rs.3.5 crores in two installments by the time the CIT(A) decides the pending appeals.

4. In the above view, this Court by its order dated 8th February, 2017 in Writ Petition No.1515 of 2017 directed the petitioner to pay / deposit in terms of the order dated 15th January, 2017, an amount of Rs.1.75 crores per month till the decision of the CIT(A) or 31st March, 2017 whichever is earlier. Thus, the petitioner was directed to pay / deposit the first of the three installments on or before 25th January, 2017 (extended till the Revenue works out the refund available consequent to orders of Tribunal for adjustment with the confirmed demands and one week thereafter), 2nd installment on or before 25th February, 2016 and the 3rd installment on or before 25th March, 2017. The compliance with the deposit of the first installment has been admittedly made. So far as 2nd installment is concerned, admittedly the petitioner had failed to make the complete deposit on 25th February, 2016 and even thereafter. However, the petitioner had kept demand drafts ready on 24th March, 2017 for the entire amount of 2nd and 3rd installments payable, to be handed over to the respondent Revenue. It is the case of the petitioner that when they offered the same to the

Revenue on 24th March, 2017, they were directed by the Officers of the Revenue to deposit it in the State Bank of India. However, before the petitioner could deposit the demand drafts in the State bank of India on 27th March, 2017 (25th and 26th March, 2017 being holidays i.e. Saturday and Sunday), the Revenue not only attached the petitioner's Bank Account but also collected an amount of Rs.3.80 crores from the Bank. The above action and the threat of the Revenue seeking to recover all its dues, in view of the petitioner's failure to comply with the order of this Court dated 8th February, 2017, has led to the filing of this petition.

5. It is an agreed position between the parties that the hearing before the CIT(A) is substantially over and an order would be forthcoming in the near future.

6. After the matter was heard for some time, taking an over all view of the matter, Mr. Walve, learned Counsel for the Revenue upon instructions from Mr. V.M. Bhosale, Assessing Officer, Deputy Commissioner of Income Tax Central Circle 2(2), Pune and Mr. Mistri, learned Senior Counsel for the petitioner, on instructions of Mr. C.J. Nawathe, Director (Finance), consented to the following order, being

passed :-

(a) The petitioner will pay a further sum of Rs.1.45 crores on or before 25th April, 2017 to the respondent Revenue (it is an agreed position between the parties that an amount to the extent of Rs.30 lakhs in excess of the aggregate of 2nd and 3rd installments has been withdrawn by Revenue). This amount of Rs.1.45 crores would be payable only if the CIT(A) does not dispose of the pending appeals by 25th April, 2017.

(b) The petitioner will give a list of all its bank accounts and fixed deposits to the respondent Revenue within two weeks from today.

(c) The petitioner undertakes that in case it opens a new bank account, the details of the same would be communicated to the respondent Revenue within seven days of the opening of the Bank Account.

(d) The respondent Revenue would vacate the attachment of the various bank accounts of the petitioner. Mr. Walve, learned Counsel appearing for the respondent Revenue, on instructions, states that the Revenue will start the process of vacating the attachment of the bank accounts immediately and would vacate attachment of all the bank accounts within a period of 12 days from today.

7. It is further clarified that the aforesaid consent directions would operate till such time as the CIT(A) passes final orders in respect of the petitioner's appeals from the orders of the Assessing Officer for Assessment Years 2008-09 to 2014-15. No further installment after the 25th April, 2017 will be payable by the petitioner till the disposal of its appeals by the CIT(A).

8. It is also made clear that in case the petitioner does not pay the amount of Rs.1.45 crores on or before 25th April, 2017 to Revenue, the protection of this order would not be available to it.

9. The Petition is disposed of the above terms. No order as to costs.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**