IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.27757 of 2003
and
W.P.M.P.No. 33925 of 2003

Rakesh Sarin, ...Petitioner

Vs.

1. Director of Income-tax, (Investigation),
Unit I (3),
Office of the Income-tax Department,
Nungambakkam High Road, Chennai-34.

2. Dy. Director of Income-tax, (Investigation),
Unit I (3),
Office of the Income-tax Department,
Nungambakkam High Road, Chennai-34.

3. Commissioner of Income-tax,
Tamil Nadu,
Office of the Income-tax Department,
Nungambakkam High Road, Chennai-34.

4. Standard Chartered Bank,
(Consumer Banking Section)
Armenian Street Branch,
58, Armenian Street,
Chennai 600 001. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents 1 to 3 to forthwith return to the petitioner the 28 items of securities seized from the petitioner on 11th June; five items seized from the petitioner's residence on 17th June 2003; and 5 items seized from standard chartered Bank particulars of all such items being furnished hereunder, and 3 items of FDRs which stand in the name of Bhushan Arora which have been seized from the petitioner and which have been unjustly encashed by the respondents and also refund to the petitioner the entire amount realized by the respondents by encashment of the securities.

For Petitioner : Mr.M.P.Senthil Kumar

For Respondents 1to 3 : Mr.A.P.Srinivas
Senior Standing Counsel
and
Mr.A.N.Jeyaprathap
Standing Counsel

Respondent-4 : Mr.S.Vasudevan

O R D E R

Heard Mr.M.P.Senthil Kumar, the learned counsel appearing for the petitioner, Mr.A.P.Srinivas, learned Senior Standing Counsel and Mr.A.N.Jeyaprathap, the learned Standing Counsel for respondents 1 to 3, and Mr.S.Vasudevan, the learned counsel for the fourth respondent.

2. The petitioner has filed this Writ Petition, praying for issuance of a writ of mandamus, to direct the respondents 1 to 3 to forthwith return to the petitioner, 28 items of securities seized from the petitioner on 11.06.2003 ; five items seized from the petitioner's residence on 17.06.2003, and 5 items seized from the Standard Chartered Bank, and 3 items of FDRs, which stand in the name of Bhushan Arora, and also to refund to the petitioner the entire amount realized by the respondents by encashment of those securities.

3. It may not be necessary to go into the merits of the matter, in the light of the submissions of the learned counsel for the petitioner that the Department filed a Writ Appeal, in W.A.No.874 of 2011, challenging the order passed in the Writ Petition filed by the petitioner, in W.P.No.25078 of 2005, dated 04.03.2011, which was challenging the order of assessment, dated 30.06.2005, for the block assessment arrears years from 1997-98 to 2002-03, and part of 2003-04. The said Writ Appeal was allowed. In another proceedings initiated by the Commissioner of Income Tax, Central Circle, Chennai, before this Court, under Section 260 A of the Income Tax Act, 1961, in T.C.A No.677 of 2013, the issue pertains to the merits of the assessment in respect of the very same block assessment years 1997-98 to 2002-03, and part of 2003-04. The Writ Appeal, in which, the Department succeeded was with regard to the jurisdictional aspect. The Hon'ble Division Bench, by judgment, dated 21.10.2013, in T.C.A.No.677 of 2013, set aside the order passed by the Income Tax Appellate Tribunal (ITAT) and remanded the matter back to the file of ITAT for consideration on merits. On remand, the matter is now pending before the ITAT as IT (SS) A. No.66/Mds/2007. When this Writ Petition was entertained,

order of interim injunction, restraining the respondents 1 to 3 from encashing any of the valuable articles, comprising RBI Bonds and FDRs or taking any further steps to realize the same was granted on 07.10.2003. This order was made absolute by order, dated 16.04.2004. Since the Appeal has been directed to be heard afresh by the Tribunal, interim injunction, which was granted in the Writ Petition shall continue till the Appeal is disposed of by the Tribunal.

4. In the light of the above, the Writ Petition is disposed of. The respondents are not entitled to encash the amounts, and they are entitled to retain the security as such. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.Director of Income-tax, (Investigation),
Unit I (3),
Office of the Income-tax Department,
Nungambakkam High Road, Chennai-34.

2.Dy. Director of Income-tax, (Investigation),
Unit I (3),
Office of the Income-tax Department,
Nungambakkam High Road, Chennai-34.

3.Commissioner of Income-tax,
Tamil Nadu,
Office of the Income-tax Department,
Nungambakkam High Road, Chennai-34.

+1cc to Mr.A.D.Srinivas,Advocate sr.48380
+1cc to Mr.S.Vasudevan,Advocate sr.48601
+1cc to M/s.Mallika,Advocate sr.48159

Writ Petition No.27757 of 2003

rr(co)
ss(4/9/2017)