Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 152 OF 2018

Dr.Arun Ganesh Jogdeo .. Petitioner
Vs.
The Union of India and ors. .. Respondents

Mr.Arun Jogdeo, Petitioner-in-person.
Mr.Suresh Kumar, for Respondents No. 1 to 4.
Mr.V.S.Gokhale, 'B' panel, AGP for Respondent No.5.

CORAM : NARESH H. PATIL, CHIEF JUSTICE &
M.S.KARNIK, J.

DATE : 19th DECEMBER, 2018

ORDER (PER M.S.KARNIK, J.) :

. The petitioner has filed the present Contempt Petition alleging willful non- implementation and non- execution of this court's order dated 28/08/2015 in PIL No. 27 of 2014. It would be material to reproduce paragraph 5 of the order dated 28/08/2015 passed by this Court which reads thus :

> 5. After having heard the Petitioner, who is appearing in person, and learned counsel appearing on behalf of the Respondents, we are of the view that since the directions

given by the Delhi High Court have now been complied by the Income Tax Department, it is not necessary to issue any further directions. The Delhi High Court in para No.57 of its Judgment and Order has given the following directions :-

> "57. In nutshell, we have issued the following directions :-
> (i) Directions given in paragraph 16 to 18 regarding maintenance of register for applications under Section 154, receipt of the said applications and their disposal.
>
> (ii) We have confirmed the interim directions given in paragraph 13 of the order dated 31st August, 2012 (see paragraphs 23 and 24 above). The said direction, we understand has been implemented.
>
> (iii) With regard to past adjustments where procedure under Section 245 has not been followed, we have issued directions in paragraphs 26 to 28.
>
> (iv) With regard to the interest under Section 244 A, we have issued directions set out in paragraphs 31 and 32 that interest should be paid when the assessee is not at fault.
>
> (v) With regard to uncommunicated intimations under Section 143(1), directions are given in paragraphs 33 and 34.
>
> (vi) With regard to unverified TDS under the heading 'U' in Form 26AS, directions have been issued in paragraph 42 for verification and correcting unmatched challans within a time period, which should be fixed by the Board keeping in mind the date of filing of return and processing of return by the assessing officer.
>
> (vii) The seventh direction / mandamus is regarding credit of TDS to an assessee when the tax deducted has

> been deposited with the Revenue by the deductor. Directions in this regard have been given in paragraphs 50 and 51."

2. The petitioner appears in- person. He was at pains to point out that order passed by this Court is not followed by the Income Tax Department in its true letter and spirit. The petitioner has by filing additional affidavit dated 19/12/2018 indicated what all should be done by the Income Tax Department to improve the system of assessment of returns, refund, etc. Thus, perusal of the contents of the affidavit reveal that they are more in the nature of suggestions to the Income Tax Department for eradicating from the root irregularities in the Income Tax Department.

3. We have gone through the affidavit-in- reply filed on behalf of the respondents. The affidavit filed by the Income Tax Department lists out various instructions/ circulars issued by the Income Tax Department in compliance with the directions of the Delhi High Court. Various initiatives of the Income Tax Department regarding setting up of self auditing mechanism /

vigilance cell for monitoring of grievances, processing of manual returns (98% of returns is by E-filing and only 2% of total income tax returns (ITRs) filed during the year and furnished manually, uploading of demand, issue of refunds, formation of vigilance cell are set out in detail.

4. For the sake of brevity we have not reproduced the contents of the detailed Affidavit-in-reply filed by the respondents. Suffice it to observe that appropriate measures are taken in compliance of the order passed by this Court.

5. In the affidavit-in-reply it is stated as under :

> "The mechanism of grievance redressal has now been made simpler and faster with the introduction of E-nivaran portal by the Department. E-Nivaran platform in e-filing portal is mane available to the tax payers, to submit online grievances. These grievances are closely monitored by the supervisory officers and online response is given to the tax payers after resolution of the grievances. The prescribed time limit for resolution of grievances lodged though e-Nivaran portal is 60 days.
>
> In fact in last few years, the Board has closely monitored the resolution of tax payers grievances as one of the Top Priority Area. If a

particular grievance petition is found to be pending beyond the prescribed time frame, then, reports are invariably called for by the concerned Zonal Member of CBDT & even the Chairman. It may also be mentioned that timely redressal of Ta payers grievances is now one of the important yardstick for evaluating annual performance of various income tax Authorities at all levels.”

6. It would also be material to reproduce paragraph 8 of the affidavit which reads thus :

> “8. The Hon'ble Bombay High Court in its order dated 28/08/2015 in PIL No. 27/ 2014 had also directed the Income Tax Department to be more vigilant and ensure that such mistakes do not occur in the future. In this regard various initiatives taken by the Department as elaborated in detail in the preceding paragraphs clearly prove that the processing of ITRs has been computarised with minimum human intervention and as result, instances of deficiencies have substantially got reduced in the last few years. Further, for grievance redressal Department has put in place an institutional set up which has been considered worthy of emulation by other departments. In view of these facts, it is submitted that as directions of the Hon'ble High Court of Delhi and Mumbai have been complied with in letter and spirit, it is humbly

> submitted that the Contempt Petition filed by the Petitioner may be rejected at the admission state itself. Hereto annexed and marked as Exhibit - R1 is the copy of the Certificate."

7. Having gone through the affidavit-in-reply filed on behalf of respondents, we are satisfied that there is substantial compliance of the order passed by this Court. A reading of paragraph 5 order dated 28/8/2015 passed by this Court itself would indicate that this Court was of the view that the directions given by the Delhi High Court have been complied by the Income Tax Department and therefore it is not necessary to issue any further directions. A reading of paragraph 6 of the order would further reveal that the Income Tax authorities were directed to follow the directions of the Delhi High Court in other cities, including the city of Mumbai. In fact the Income Tax Department was asked to be more vigilant and ensure that such mistakes will not occur in future. These directions have been complied with. We are satisfied that a case of willful breach or disobedience of the order passed this Court is not made out. An

attempt on the part of the petitioner is more of an endeavour to further improve the functioning of the Income Tax Department. As regards the suggestions given by petitioner in the additional Affidavit, we make it clear that it is always open for the petitioner to make representation to respondents suggesting ways and means to further improve functioning of Income Tax Department.

8. As we are satisfied that there is substantial compliance of the order passed by this Court, we are not inclined to entertain the present Contempt Petition.

9. The Contempt Petition is accordingly dismissed reserving liberty of the petitioner to file a comprehensive representation to the Income Tax Department as indicated hereinbefore.

(M.S.KARNIK, J.) **(CHIEF JUSTICE)**