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

\+ W.P.(C) 1978/2018 and CM Nos. 8138-8140/2018

ANALJIT SINGH ..... Petitioner

Through Mr. Ajay Vohra, Sr. Adv. with Mr. Gaurav Jain, Ms. Kavita Jha, Mr. Aniket D. Agrawal, Ms. Deepika Agarwal, Advs.

versus

JOINT COMMISSIONER OF INCOME TAX (OSD) & ANR. ..... Respondents

Through Mr. Asheesh Jain, Sr. Standing Counsel with Mr. A. Sreenivasa Rao, Addl. Commissioner of Income Tax

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **28.02.2018**

Mr. Analjit Singh has filed the present writ petition which has been listed after mentioning before the Hon'ble Acting Chief Justice.

2. Urgency is that the respondent, Joint Commissioner of Income Tax has issued garnishee notices under Section 226 (3) of the Income Tax Act, 1961 (the Act) dated 26/27.02.2018 attaching the bank accounts of the petitioner for recovery of unpaid demand of Rs.303 Crores relating to the Assessment Year 2014-2015.

3. Learned counsel for the petitioner submits that the petitioner has filed an application under Section 254(2) the Act before the Income Tax

Appellate Tribunal (ITAT) as they perceive and believe that there is an error apparent to the computation under Rule 11UA of the Income Tax Rules, 1962 as the figures were incorrect and wrong. It is also submitted that the ITAT has erroneously invoked Rule 11UA which is not applicable for the computation of sale consideration for capital gains on sale of shares. It is submitted that the sale transactions were at arms length and between the unrelated parties after approval of FIPB and therefore, under valuation of consideration would not arise.

4. Learned counsel for the petitioner states that application filed under Section 254(2) of the Act, after two adjournments at the request of Revenue, was heard on 30.01.2018. Order has been reserved. The respondents without awaiting decision on the application have issued garnishee notices and attached bank accounts of the petitioner.

5. Learned counsel for the respondents states that on attachment Rs.4 lakhs have been recovered. Tax demand is substantial and the petitioner had erroneously approached ITAT for stay of recovery. The petitioner has paid only Rs.65 crores and even after giving benefit of this payment, Rs.303 crores is due and payable.

6. Learned counsel for the respondents submits that the order under Section 254 (1) of the Act passed by the ITAT is appealable under Section 260A of the Act before the High Court. The petitioner has neither filed any appeal nor any application for stay.

7. At this stage, learned counsel for the petitioner submits that they would be filing an appeal against the order of the ITAT dated 01.12.2017 within a period of 7 working days. He states that the petitioner may be put to terms but the garnishee notices/bank accounts may be stayed/kept in

abeyance as the petitioner would suffer irreparable injury and harm as the entire business would suffer and stop.

8. On suggestion, the petitioner has agreed to pay Rs.8 Crores within a period of 10 days from today.

9. Subject to the aforesaid payment, garnishee notices would be kept in abeyance for a period of 12 days. In the meanwhile, the petitioner may file an appeal with application for stay of recovery of tax demand through coercive steps. Petitioner would be entitled to operate bank accounts in normal course of business. Statement of accounts would be furnished after 12 days to the respondents.

10. In view of the statement made and with the consent of the counsel for the parties, the writ petition is disposed of in the above terms without any order as to costs. We have not commented on merits. The pending applications are also disposed of.

11. *Dasti* under signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 28, 2018
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