IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3591 OF 2019

Jayanthi Babu Iyer .... Petitioner

versus

Income Tax Officer, Ward 1 ... Respondent

…....

- Ms.Ritika Agarwal a/w Ms.Deepti Jethva i/b. ACE Legal, Advocate for Petitioner.
- Mr.Sham Walve, Advocate for Respondent.

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.
DATE : 25th MARCH, 2019.

P.C. :

1. The Petitioner is an individual. She has challenged the action of income-tax department in initiating coercive recoveries of the tax arising out of her assessment dated 23/11/2018. The case of the Petitioner is that the additions are made by the Assessing Officer on entirely erroneous grounds, ignoring the Petitioner's contention that the flats were sold by the developer of the land who had also shown the sale proceeds

out of such sale in the return. Despite this, the Assessing Officer passed the order of assessment making additions in the hands of the assessee. The assessee thereupon filed application for rectification of the order of assessment. She also filed Appeal before the Appellate Commissioner. Pending such proceedings, she requested for stay of recovery. The Assessing Officer attached her bank account and has already withdrawn a sum of Rs.17,110/- which was the total balance in her account.

2. Appearing for the department, the learned Counsel Mr.Sham Walve stated on instructions that the attachment of the bank account has been removed. The principal Commissioner shall dispose of the Petitioner's application for stay pending Appeal. The Assessing Officer shall also dispose of her application for rectification expeditiously.

3. In view of such statement, only direction that needs to be issued is to return the sum or money withdrawn by the department from the Petitioner's bank account ,which account is

in violation of the judgment of this Court and in particular in case of ***UTI Mutual Fund Vs. Income-tax Officer & Ors., reported in (2012) 345 ITR 71 (Bom)***.

4. The Petition is therefore disposed of with following directions;

(i) The department shall act in consonance with the statement of the department's Counsel.

(ii) The Respondent shall return the amount withdrawn from the Petitioner's bank account through attachment.

(iii) There shall be no coercive recovery till Principal Commissioner decides the Petitioner's application for stay, pending Appeal.

(iv) Writ Petition is disposed of accordingly.

(SARANG V. KOTWAL, J.) **(AKIL KURESHI, J.)**