IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 21020 of 2009
and
M.P. No. 1 of 2009

M. Bhawarlal Jain ... Petitioner

Vs

1. Assistant Commissioner Income-tax,
   Central Circle II (5),
   46, Mahatma Gandhi Road,
   Chennai - 600 034.

2. Deputy Commissioner of Income-tax,
   Central Circle II (5) (i/c)
   121, Nungambakkam High Road,
   Chennai - 600 034.

3. Commissioner of Income-tax,
   Central II,
   108, Mahatma Gandhi Salai,
   Chennai - 600 034. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents to pay the Petitioner forthwith the sum of Rs.98,41,468/- together with further interest due thereon and also return the seized jewellery and bullion weighing 17,717 grams together with the compensation calculated at the rate of 12% per annum on the value of the aforesaid jewellery from the date of seizure till the date of return.

For Petitioner : Mr. G. Baskar
for Mr. N. Muthu Kumar

For Respondents : Mr. A.N.R. Jayaprathap
Government Advocate (Tax)

ORDER

This writ petition has been filed by the Petitioner seeking for the issuance of Writ of Mandamus, to direct the Respondents to pay to the Petitioner forthwith a sum of Rs.98,41,468/- together with further interest due thereon and also return the seized jewellery and bullion weighing 17,717 grams together with the compensation calculated at the rate of 12% per annum on the value of the aforesaid jewellery from the date of seizure till the date of return.

2. The Petitioner has partly succeeded in this Writ Petition inasmuch as an interim order came to be passed by this Court on 24.01.2019. As per the said order, the Petitioner was directed to pay a sum of Rs.8,25,742/- for release of gold seized on 28.12.2001. Therefore to that extent, no further orders are required to be passed in this Writ Petition. As far as the remaining part of the prayer for a refund of Rs.98,41,468/- is concerned, both the learned counsel fairly submit that the Petitioner can make appropriate application before the Assessing Officer and appropriate orders can be passed by the Assessing Officer.

3. Recording the same, this Writ Petition is disposed of giving liberty to the Petitioner to file appropriate application before the Assessing Officer namely the First Respondent. Since the dispute pertains to the Assessment Years 1995 to part of 2001. (01.04.1995 to 28.12.2001, the Petitioner may make such application within a period 30 days from the date of receipt of a copy of this order.

4. On such application being received by the First Respondent, the Respondents may pass appropriate orders in accordance with law within a period of three months thereafter. It is needless to state that such orders shall be passed after hearing the Petitioner. The Petitioner is entitled to make additional submissions if any.

5. The Writ Petition stands disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To
1.The Assistant Commissioner Income-tax,
Central Circle II (5),
46, Mahatma Gandhi Road,
Chennai - 600 034.

2. The Deputy Commissioner of Income-tax,
Central Circle II (5) (i/c)
121, Nungambakkam High Road,
Chennai - 600 034.

3. The Commissioner of Income-tax,
Central II,
108, Mahatma Gandhi Salai,
Chennai - 600 034.

+1 CC to Mr.N. Muthukumar, Advocate sr 2878.

W.P. No. 21020 of 2009
and
M.P. No. 1 of 2009

MP(CO)
SP(05/03/2020)