

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 28.08.2019

Judgment Delivered on : 6.09.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

W.A.No. 2063 of 2019
& CMP No.13893 of 2019

Cognizant Technology Solutions India Pvt. Ltd.,
No.165, Eternity Building,
6th Floor, St. Mary's Road,
Chennai-600 018. ... Appellant

Vs.

Deputy Commissioner of Income Tax,
Large Tax Payer Unit,
7th Floor, Wanaparthi Block,
Aayakar Bhavan, Nungambakkam,
Chennai-600 034. ... Respondent

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 25.06.2019 made in W.P.No.7354 of 2018.

Prayer in WP No. 7354 of 2018 : Petition filed under Article 226 of the constitution of India praying to issue a writ of certiorare to call for the records pertaining to F NO. Recovery / DCIT (LTU) - 1/2017-18 dated 22.3.18 on the file of the respondent herein and quash the same.

For Appellant : Mr.Gopal Subramanian, S.C.,
for Mr.Srinath Sridevan

For Respondent : Mr.G.Rajagopalan, A.S.G.,
assisted by
Mr.Karthik Ranganathan

JUDGMENT

M.M.SUNDRESH, J.

The appellant sought for an approval of the Scheme under Sections 391 to 393 of the Companies Act, 1956, involving purchase of shares from its shareholders in C.P.No.102 of 2016.

2. The Scheme filed by the appellant was approved by this Court on 18.04.2016. In pursuant to the same, the appellant bought back the shares from its shareholders and accordingly, it was treated as capital gains. Thus, a sum of Rs.898.01 crores was withheld as TDS for the amount paid to its shareholders as per the return filed by it.

3. The respondent sought for certain details of the remittances made by the appellant to its overseas shareholders. The appellant sent its reply while furnishing the details sought for. Anticipating that the respondent would treat the transaction as that of the defendant, the appellant filed an application before the Authority of Advance Ruling ('AAR') under Section 245Q of the Income Tax Act, 1961, warranting a ruling on the amount received by its shareholders in lieu of the shares bought back.

4. The respondent issued the impugned order dated 22.03.2018 inter alia holding that the transactions made in pursuant to the buy back arrangement effected as consequence to the approval of the Scheme requires to be taxed under Section 115-O of the Income Act on the premise that it would constitute dividend and not capital gain. As a consequence thereon, the bank accounts of the appellant were freezed. Challenging the order dated 22.03.2018, the appellant has filed a writ petition in W.P.No.7354 of 2018 raising various grounds. In pursuant to the conditional interim order granted, the appellant paid a sum of Rs.495 crores. Out of the payable demand of Rs.2806 crores. Thereafter, the writ petition filed was dismissed with liberty to the appellant to file an appeal. The operative portion of the aforesaid order is apposite.

" 30. In the above referred decisions, the Hon'ble Supreme Court and various High Courts have held that the assessee has an appeal remedy under Section 246 of the Act. In this case, an unsuccessful attempt has been made by the petitioner to bypass the appeal remedy, but, I find no valid ground to entertain the Writ Petition. In that view, the Writ Petition is dismissed as not maintainable at this stage.

31. It is also contended by the learned Senior Counsel for the petitioner that India needs Foreign Direct Investment for developmental activities and investments have been made by the foreign companies, based on the invitation made by the Government of India and the State Governments. While so, if they are harassed by the Officials by making unreasonable demand, it would seriously affect the Foreign Direct Investment. Such situation does not arise here and I find no such harassment in the matter on hand.

32. For the foregoing reasons, the Writ Petition fails and the same is dismissed. However, liberty is given to the petitioner to prefer an appeal within a period of four weeks from today. If such an appeal is filed within the stipulated time, the Appellate Authority shall dispose of the same on merits, after providing sufficient opportunity of hearing to the petitioner. It is needless to mention that the above observations have been made only to reach a prima facie conclusion.

33. It is to be noted that the petitioner in compliance of the order of this Court, dated 03.04.2018, in W.M.P.No.9135 of 2018 in W.P.No.7354 of 2018, deposited Rs.495 Crores. Since this Writ Petition is dismissed, directing the petitioner to avail the appeal remedy, the Appellate Authority shall take into account the amount deposited in pursuance of the order referred supra, while entertaining the appeal. With regard to Fixed Deposits, the respondent shall maintain status-quo as on date for a period of two weeks. There is no order as to costs. Consequently, connected miscellaneous petition is closed."

Aggrieved over the same, the present writ appeal has been filed before us.

5.Heard Mr.Gopal Subramanian, learned Senior Counsel for Mr.Srinath Sridevan, learned Counsel appearing for the appellant and Mr.G.Rajagopalan, Additional Solicitor General of India, assisted by Mr.Karthik Ranganathan, for the respondent-State and perused the records.

6.The learned Senior Counsel appearing for the appellant made the following submissions:

The order impugned cannot be sustained in the eye of law, Section 115-O of the Income Tax Act, 1961, cannot be invoked unilaterally and without adjudication by treating the transactions as that of dividend, which would not come within the purview of Section 2(22)(d) of the Income Tax Act, 1961 (hereinafter referred to "the Act"). As the buy back Arrangement of Scheme was approved by the Court that it is not open to the respondent to review it. There has to be a harmonious construction of Sections 2(22)(d) and 10(34A), 46A and 115QA of the Act. There was no prior notice issued to the appellant before passing the impugned demand and therefore, there is a violation of the principles of natural justice. The transactions would come within the purview of Section 46A of the Act alone. Section 115-O of the Act could only be applied when the facts are admitted. The respondent itself has taken a contrary stand in the counter affidavit on the question as to whether the impugned communication is one of show cause notice or a final order. If it is show cause notice, then there is no need to freeze the accounts. The proper course for the respondent is to fall back on Section 143 of the Act. Thus, there cannot be a direct coercive action resulting in the impugned order. The appellant cannot be asked to avail the alternative remedy by way of an appeal. Such an order only can be passed after due notice, in which case alone an appeal would lie. In any case, there is no bar for this Court to entertain the writ petition and interfere with the order passed, if it finds that it involves violation of principles of natural justice and non following of the procedure required.

7.It is further submitted that the learned single Judge ought not to have gone into the merits of the case and rendered an adverse finding and thereafter asked the appellant to file an appeal. Thus, the order passed by the learned single Judge requires to be interfered with. To buttress his submissions, the learned Senior Counsel has made reliance on the following judgments.

- (i) Union of India and another Vs. Azadi Bachao Andolon and another ((2004) 10 Supreme Court Cases 1);
- (ii) The Commissioner of Income-Tax, Mumbai Vs. Walfort Share and Stock Brokers Private Limited ((2010) 8 Supreme Court Cases 137);
- (iii) Taxman Circular No.3/2016(F.No.225/29/2016/ITA.II) dated 26.02.2016;
- (iv) ((2012) 6 Supreme Court Cases 613);
- (v) Genpact India (P) Ltd., V. Deputy Commissioner of Income Tax ((2019) 108 Taxmann,.com. 340 (Delhi));
- (vi) The Commissioner of Income-Tax, Delhi

Vs. S.Teja Singh ((1959) Suppl.(1) SCR 394);
and
(vii)The Assistant Commissioner of Income-Tax
Circle-1, Trichy Vs. M/s Dalmia Power Limited
(W.A.(MD) Nos.566 and 569 of 2019).

8.The learned Additional Solicitor General of India appearing for the Revenue would submit that Section 115-O of the Act does not mandate any prior notice. It is a special provision coming under Chapter XII-D of the Act. The provision also contains the non-obstante clause. This provision will have to be read along with 115Q of the Act which speaks of a deemed default. It is a mandate of law. As admittedly the appellant has bought back more shares than the one permissible under law, Section 115-O of the Act stands attracted. The approval of the Scheme will not bind the respondent. This Court was only acting as a Company Court. There is no need to go through the process involved under Section 143(1) of the Act. The affidavit filed by the respondent will have to be seen in the context and that is order not the show cause notice but a final one. The order only mandates the appellant to pay the requisite amount. That is the reason why it was followed by freezing of the accounts. One has to see the over all conduct of the appellant. Certainly, the provision 2(22)(d) would attract as this involves reduction of capital. The learned single Judge was pleased to hold that the appeal if filed would be disposed of after affording opportunity of sufficient hearing and the observation made are only prima facie in nature. Therefore, the appeal deserves to be dismissed, especially when the statutes provide for alternative remedy, which is to be exhausted. In support of his contention, the learned Additional Solicitor General relied upon the following decision.

(i)Sharif-ud-Din Vs. Abdul Gani Lone (AIR 1980
Supreme Court 303)

9.After hearing the learned counsel appearing for the parties, we deem it appropriate to decide as to whether the appeal requires to be decided on merit or not. In other words, this Court will have to render a finding as to whether the decision of the learned single Judge by directing the appellant to exhaust the statutory remedy is legally correct or not? Incidentally, it is also to be decided as to whether the learned single Judge is right in going into the merits of the case.

10. Discussion:

10.1. It is trite that in issues involving fiscal statutes, extraordinary and discretionary jurisdiction of this Court available under Article 226 of the Constitution of India requires to be exercised with greater caution and very sparingly. The learned single Judge has given two findings

against the appellant while holding that it is open to him to file an appeal. Though it is observed that the observations are only prima facie in nature, the writ petition was dismissed on the reasons assigned. Therefore, the findings rendered cannot be termed as prima facie as they were not mere observations. As the learned Senior Counsel appearing for the appellant submits they might militate against the appellant as substantive findings on merit. If that is the case, the appeal to be filed would be of a mere formality.

10.2. Thus, the learned single Judge, in our considered view, ought not to have gone into the merits of the case. The first finding rendered by the learned single Judge is to the effect that the transactions are not mere buying back of shares but granting dividend to the shareholders.

10.3. Secondly, it was held that there is no need to follow any procedure towards adjudication while invoking Section 115-O of the Act. We place on record the following paragraphs, in which, the aforesaid findings have been given.

"20. The only difference between the regular assessment and Special Provisions is that under the regular assessment, the Authorities are required to verify the Returns submitted by the assessee and the materials to ascertain the income escaped from assessment. However, under the Special Provisions, there is no dispute with regard to quantum of distribution of profit made by the Company. Hence, in my opinion there is no need for issuance of notice before making a demand under Section 115 O of the Act. It is to be noted that unless the law requires, the Assessing Officer need not issue notice before making a demand under Section 115 O of the Act. The parliament in its wisdom brought amendments to the Finance Act and inserted Section 115 O to 115 Q with effect from 01.06.1997 (Special Provisions) to achieve an object. If any other view is taken, then the Special Provisions under Chapter XIV would become redundant and it would be opening a pandoras box.

.....

28. In the light of the decisions referred supra and the order passed by this Court in C.P.No.102 of 2016, and also the reasons stated for purchasing the shares under the Scheme of Arrangement under Sections 391 to

393 of the Companies Act, prima-facie I find no merit in the contention of the learned Senior Counsel for the petitioner that the shares purchased pursuant to the order of the Company Court would be a capital gain and not to be treated as dividend."

10.4. Having given the aforesaid findings, the writ petition was accordingly dismissed. This is in our considered view cannot be sustained in the eye of law. They are not mere observations but findings on merit both on fact and law. In such view of the matter, we are of the view that the learned single Judge was not right in going to the merit while granting liberty to file an appeal.

10.5. A submission is also made raising doubt over the maintainability of the appeal under Section 246-A of the Act. We have no hesitation in holding that the appeal is maintainable. The very case of the respondent is that the appellant ought to have shown its return the transactions as dividend and not capital gain. Therefore, it is a case of an improper return having been filed. Considering some what similar objection raised on a slightly different fact involving a demand raised under Section 115Q of the Act, a Division Bench of Delhi High Court in Genpact India (P) Limited Vs. Deputy Commissioner of Income-Tax ((2019) 108 Taxmann.com 340(Delhi)) was pleased to hold that the appeal would certainly be maintainable. Therefore, any order involving civil consequence has to be termed as final, entitling an assessee in challenging the same before the appellate forum. Certainly, a purposive interpretation is required to be adopted. In a procedural law which provides for an appeal, a technical interpretation is required to be eschewed. Interestingly, the revenue has not raised any issue over the maintainability of the appeal. It has also accepted the order of the learned Single Judge. Thus, we do not find any error in the order of the learned single Judge in placing reliance upon Section 246A of the Act in holding that the remedy open to the appellant is to file an appeal.

11. The learned Senior Counsel appearing for the appellant would submit that it is not known as to whether the impugned order dated 22.03.2018 is a show cause notice or final order. Though there appears to be some element of contradiction in the counter affidavit filed, the said order appears to be a final one. Now it is also the contention of the learned Additional Solicitor General that it is only a final order. We are also of the view that the further action taken would also indicate that the order under challenge was a final one. If it is only a

show cause notice, then there is no need to challenge it and instead the consequential freezing alone requires to be questioned. The further question as to whether the order under challenge violates the principles of natural justice or requisite procedure contemplated under the Act is a matter for consideration before the Appellate Authority. The learned single Judge has rightly observed that the appeal can be entertained and decided on merit as the appellant has already deposited a sum of Rs.495 crores.

12. We would like to reiterate the legal position involving invocation of the extraordinary jurisdiction of this Court by placing reliance upon the judgment of a Division Bench of this Court in the Joint Commissioner of Income Tax, Media Range and others Vs. Kalanithi Maran and another (2014 (3) Law Weekly 846) in which one of us is a party (MMSJ) wherein law laid down by the Apex Court in Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal, ((2014) 1 SCC 603), has been noted of. The following paragraphs would be apposite.

"12. While holding so, we are quite aware that the jurisdiction vested with High Court under Article 226 of the Constitution of India can be exercised in a given case. In other words, the restriction is self-imposed and nothing else. There may be a case, where an assessment is sought to be reopened by an Officer, who is not competent to do so. Similarly, there may be cases, where on the face of it would appear that the reopening is barred by limitation or lacks inherent jurisdiction. To put it differently, in a case, where no adjudication is required on facts, then certainly jurisdiction of this Court under Article 226 of the Constitution of India can very well be invoked. Therefore, to such a limited extent, we are inclined to hold that the jurisdiction of this Court under Article 226 of the Constitution of India can be exercised.

13. Considering the said principle, the Supreme Court in Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal, ((2014) 1 SCC 603), was pleased to hold as under:

"15. Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of

the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, (AIR 1964 SC 1419), Titagarh Paper Mills case ((1983) 2 SCC 433) and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.''

We do not find any of the circumstances as laid down by the Supreme Court available before us. As discussed earlier, such a situation has not arisen in these cases, as the stage is premature, where the rights and liabilities are yet to be crystallised.

14. Ratio laid down in Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal, ((2014) 1 SCC 603):-

The entire issues framed, in our considered view, are covered by the recent judgment of the Supreme Court referred above. Considering the jurisdiction of this Court under Article 226 of the Constitution of India, it has been held therein in the following manner:

"10. In the instant case, the only question which arises for our consideration and decision is whether the High Court was justified in interfering with the order passed by the assessing authority under Section 148 of the Act in exercise of its jurisdiction under Article 226 when an equally efficacious alternate remedy was available to the assessee under the Act."

15. The Supreme Court, while considering the said issue, has also taken into consideration the decision rendered in G.K.N.Driveshafts (India) Limited Vs. Income-tax Officer, ((2003) 1 SCC 72 = 259 ITR 19(SC)). In this connection, it is apposite to refer paragraph No.12 of the said decision, which reads as follows:-

"12. The Constitution Benches of this Court in K.S. Rashid and Sons vs. Income Tax Investigation Commission, (AIR 1954 SC 207); Sangram Singh vs. Election Tribunal, Kotah, (AIR 1955 SC 425); Union of India vs. T.R. Varma, (AIR 1957 SC 882); State of U.P. vs. Mohd. Nooh, (AIR 1958 SC 86) and K.S. Venkataraman and Co. (P) Ltd. vs. State of Madras, (AIR 1966 SC 1089) have held that though Article 226 confers a very wide powers in the matter of issuing writs on the High Court, the remedy of writ is absolutely discretionary in character. If the High Court is satisfied that the aggrieved party can have an adequate or suitable relief elsewhere, it can refuse to exercise its jurisdiction. The Court, in extraordinary circumstances, may exercise the power if it comes to the conclusion that there has been a breach of principles of natural justice or the procedure required for decision has not been adopted. (See: N.T. Veluswami Thevar vs. G. Raja Nainar, (AIR 1959 SC 422); Municipal Council, Khurai vs. Kamal Kumar, ((1965) 2 SCR 653); Siliguri Municipality vs. Amalendu Das, ((1984) 2 SCC 436); S.T. Muthusami vs. K. Natarajan, ((1988) 1 SCC 572); Rajasthan SRTC vs. Krishna Kant, (1995) 5 SCC 75; Kerala SEB vs. Kurien E. Kalathil, ((2000) 6 SCC 293); A. Venkatasubbiah Naidu vs. S. Chellappan, ((2000) 7 SCC 695); L.L. Sudhakar Reddy vs. State of A.P., ((2001) 6 SCC 634); Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha vs. State of Maharashtra, ((2001) 8 SCC 509); Pratap Singh vs. State of Haryana, ((2002) 7 SCC 484) and GKN Driveshafts (India) Ltd. vs. ITO, ((2003) 1 SCC 72)."

16. Statutory remedy:-

When in a fiscal statute, hierarchy of remedy of appeals are provided, the party has to exhaust them instead of seeking relief by invoking the jurisdiction of this Court under Article 226 of the Constitution of India and as held in Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal, ((2014) 1 SCC 603), the Court will have to take into consideration of the legislative intent enunciated in the enactment in such cases. It is not as if the alternative remedy is neither efficacious nor effective. In the above said judgment, the Supreme Court held as under:

"13. In Nivedita Sharma vs. Cellular Operators Assn. of India, (2011) 14 SCC 337, this Court has held that where hierarchy of appeals is provided by the statute, party must exhaust the statutory remedies before resorting to writ jurisdiction for relief and observed as follows (SCC pp.343-45, paras 12-14)

"12. In Thansingh Nathmal v. Supdt. of Taxes, (AIR 1964 SC 1419), this Court adverted to the rule of self-imposed restraint that the writ petition will not be entertained if an effective remedy is available to the aggrieved person and observed: (AIR p. 1423, para 7).

"7. ... The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up."

13. In Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 this Court

observed: (SCC pp. 440-41, para 11)

"11. ... It is now well recognised that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by that statute only must be availed of. This rule was stated with great clarity by Willes, J. in *Wolverhampton New Waterworks Co. v. Hawkesford*, 141 ER 486 in the following passage: (ER p. 495)

'... There are three classes of cases in which a liability may be established founded upon a statute. ... But there is a third class viz. where a liability not existing at common law is created by a statute which at the same time gives a special and particular remedy for enforcing it. ... The remedy provided by the statute must be followed, and it is not competent to the party to pursue the course applicable to cases of the second class. The form given by the statute must be adopted and adhered to.'

The rule laid down in this passage was approved by the House of Lords in *Neville v. London Express Newspapers Ltd.*, 1919 AC 368 and has been reaffirmed by the Supreme Court With All High Courts Page 4 of 6 Privy Council in *Attorney General of Trinidad and Tobago v. Gordon Grant and Co. Ltd.*, 1935 AC 532 (PC) and *Secy. of State v. Mask and Co.*, AIR 1940 PC 105 It has also been held to be equally applicable to enforcement of rights, and has been followed by this Court throughout. The High Court was therefore justified in dismissing the writ petitions in limine."

14. In *Mafatlal Industries Ltd. v. Union of India*, (1997) 5 SCC 536 B.P.Jeevan Reddy, J. (speaking for the majority of the larger Bench) observed: (SCC p. 607, para 77)

"77. ... So far as the jurisdiction of the High Court under Article 226—or for that

matter, the jurisdiction of this Court under Article 32—is concerned, it is obvious that the provisions of the Act cannot bar and curtail these remedies. It is, however, equally obvious that while exercising the power under Article 226/Article 32, the Court would certainly take note of the legislative intent manifested in the provisions of the Act and would exercise their jurisdiction consistent with the provisions of the enactment.”

(See: G. Veerappa Pillai v. Raman & Raman Ltd., AIR 1952 SC 192; CCE v. Dunlop India Ltd., (1985) 1 SCC 260; Ramendra Kishore Biswas v. State of Tripura, (1999) 1 SCC 472; Shivgonda Anna Patil v. State of Maharashtra, (1999) 3 SCC 5; C.A. Abraham v. ITO, (1961) 2 SCR 765; Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433; H.B. Gandhi v. Gopi Nath and Sons, 1992 Supp (2) SCC 312; Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC 1; Tin Plate Co. of India Ltd. v. State of Bihar, (1998) 8 SCC 272; Sheela Devi v. Jaspal Singh, (1999) 1 SCC 209 and Punjab National Bank v. O.C. Krishnan, (2001) 6 SCC 569)

14. In Union of India vs. Guwahati Carbon Ltd., (2012) 11 SCC 651, this Court has reiterated the aforesaid principle and observed: (SCC p.653, para 8)

“8. Before we discuss the correctness of the impugned order, we intend to remind ourselves the observations made by this Court in Munshi Ram v. Municipal Committee, Chheharta, (1979) 3 SCC 83. In the said decision, this Court was pleased to observe that: (SCC p. 88, para 23).

“23. ... when a revenue statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all the other forums and modes of seeking [remedy] are excluded.”

13. We also do not find any error in the order of the learned single Judge with respect to the deposit made during the pendency of the interim order as erroneous. It is only an interim arrangement directed to be made pending the appeal. In such view of the matter, while upholding the direction of the learned single Judge with respect to the deposit and the liberty granted to file an appeal are accordingly upheld. However, the findings rendered on the nature of transaction and the scope under Section 115-O of the Act are accordingly set aside. The issue as to whether the impugned order should be preceded by a procedure involving adjudication and the requirement of violation of principles of natural justice are also left open to be decided in the appeal. Accordingly, the writ appeal stands allowed in part as indicated. As granted by the learned single Judge, we are inclined to grant a period of four weeks from the date of receipt of a copy of this order to file an appeal before the Appellate Authority. No costs. As and when such an appeal is filed, the same will have to be disposed of within a period of eight weeks thereafter. Consequently, connected miscellaneous petition is closed.

06/09/2019

for Being Spoken to

This matter having been listed for "Being Spoken to" dated 12/09/2019, pursuant to the order of this Court Dated 06/09/2019, made herein to the presence of the aforesaid Counsels on either side the Court order the following order:

The above writ appeal is listed today i.e., on 12.09.2019, under the caption "for being spoken to" as a mention has been made by both the learned counsels appearing for the parties.

2. The learned counsels submitted that the first three sentences in paragraph 13 of the judgment require clarification to the effect that the interim protection and the deposit as ordered by the learned single Judge will have to continue pending disposal of the statutory appeal.

3. Accordingly, by consent, the first three sentences in paragraph 13 of the order are replaced as under:

"We also do not find any error in the order of the learned single Judge with respect to the interim order as erroneous. It is only an interim arrangement directed to be made pending the statutory appeal. In such view of the matter, while upholding the direction of the

learned single Judge with respect to the interim order and the liberty granted to file an appeal are accordingly upheld."

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

raa
To
The Deputy Commissioner of Income Tax,
Large Tax Payer Unit,
7th Floor, Wanaparthi Block,
Aayakar Bhavan, Nungambakkam,
Chennai-600 034.

+2cc to Mr.Srinath Sridevan, Advocate SR.No.77332, 78587

W.A.No. 2063 of 2019

BP(CO)
GMY(04/10/2019)