

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.4537 OF 2021

&

WMP NO.9412 OF 2021

Mr.S.A.Kamlesh Kumar (HUF)

... Petitioner

..Vs..

- 1 The Principal Commissioner
of Income Tax Central -1, Chennai
Income Tax Department, 108,
Nungambakkam High Road, Chennai.
 - 2 The Additional Commissioner of Income Tax
Central -1, Chennai, Income Tax Department,
108, Nungambakkam High Road, Chennai.
 - 3 The Assistant Commissioner of Income Tax Central -1(2)
Chennai, Income Tax Department, 108,
Nungambakkam, High Road, Chennai.
- ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents to release the jewellery retained by them.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.A.P.Srinivas

Senior Standing Counsel

O R D E R

After hearing the parties, on 26.02.2021, I have passed the following order:

2. The prayer is for a mandamus directing the respondents to release the jewellery retained by them seized in the course of search conducted on 21.12.2012. The assessment framed pursuant thereto has travelled in appeal to the Income Tax Appellate Tribunal and has been remanded.

3. The order of remand passed by the Income Tax Appellate Tribunal on 12.12.2017 was challenged by the revenue in Tax Case (Appeal) No.434 of 2018, dismissed on 15.07.2020 by a Division Bench of this Court. On the assessment has been completed as early as on 31.12.2018, where the Assessing Authority records the position that the entire demand of taxes and interest has been paid and the demand is quantified as 'nil'. The petitioner has challenged the assessment and the same is pending disposal before the Commissioner of Income Tax (Appeals). While so, seeing as the entire demand has been remitted and the interests of the revenue protected, the petitioner sought return of the seized jewellery on 09.03.2020.

4. Let the representation be considered and disposed after hearing the petitioner and orders be passed prior to 30.03.2021.

2. The matters had come up for hearing on two occasions when I was given to understand that the process of considering the petitioner's representation was on-going and additional time was sought. It is brought to my notice today that on 08.04.2021, the Deputy Commissioner of Income Tax, Central Circle -1(2) has conveyed the approval of the Principal Commissioner of Income Tax for release of 5825.59 gms of jewellery and communicated the same to the Assessing Officer. The letter states that the process of release is underway. This is recorded. The communication of the Assessing Officer is extracted below:

The assessee vide his petition dated 03.11.2020 and on other dates requested for release of Gold Jewellery weighing 5825.59 gms before the Principal Commissioner of Income Tax, Central -1. On the application made by Shri.S.A.Kamalesh Kumar HUF, Principal Commissioner of Income Tax, Central - 1 has approved the release of 5825.59 gms of jewellery and communicated to the undersigned vide order in C.No.1541/PCIT/C-1/60/2013-14 dated 08.04.2021. Vide approval cited above, the process of the release is underway and Gold jewellery will be released complying with the directions of The Principal Commissioner of Income Tax, Central - 1.'

3. In the light of the same, the mandamus sought stands achieved. Let the process of release be completed after observing all formalities and procedures as required under the Rules within a period of four (4) weeks from today.

4. This Writ Petition is closed. No costs. Connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Principal Commissioner
of Income Tax Central -1 Chennai Income
Tax Department 108 Nungambakkam High Road
Chennai.
- 2 The Additional Commissioner
of Income Tax Central -1 Chennai Income
Tax Department 108 Nungambakkam High Road
Chennai.
- 3 The Assistant Commissioner
of Income Tax Central -1(2) Chennai
Income Tax Department 108 Nungambakkam
High Road Chennai.

+1cc to Mr.A.P.Srinivas, Senior Standing Counsel, S.R.No.25375

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& WMP No.9412 of 2021

KJ(CO)
CS/02/07/2021

सत्यमेव जयते

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