IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.Nos.8441, 8447, 8451, 8869, 8893, 8927, 8952 & 10679 of 2021
and
W.M.P.Nos.9421, 9423, 9449, 9422, 11304, 11307, 8991, 8992, 8994, 9450, 9002, 9006, 9007, 9481, 9467, 9468, 9469, 9480, 9001 & 9452 of 2021

Geetha Muthiah
W/o. M.A.M.R.Muthiah ... Petitioner in W.P.No.8441 of 2021

M.A.M.R.Muthiah
S/o. Dr.A.M.Ramaswamy ... Petitioner in W.P.Nos.8447 & 8451 of 2021

Ms.Sigapi Muthaiah
Rep by her power agent
M.A.M.R.Muthiah ... Petitioner in W.P.Nos.8893 & 8927 of 2021

Ms.Meyyamai Muthaiah
Rep by her power agent
M.A.M.R.Muthiah ... Petitioner in W.P.No.8869 of 2021

Geetha Muthaiah
W/o M.A.M.R.Muthiah ... Petitioner in W.P.No.8952 of 2021

Chettinad Cemant Corporation Pvt Ltd.,
Rep by its company secretary,
Mr.S.Hariharan ... Petitioner in W.P.No.10679 of 2021

-Vs.-

1. The Deputy Director of Income Tax (Inv)
Unit 4(2), Chennai
Room No.125, New Building (First Floor)
New No.46, Old No.108
Nungambakkam High Road
Chennai-600 034. 1st Respondent in all WPs

2. M/s.State Bank of India
Represented by its Branch manager
Gopalapuram Branch
Chennai. ..2nd Respondent in WP.NOs.8441,8451,8869,8893/2021

M/s.HDFC Bank Ltd.,
Rep by its Branch Manager
R.A.Puram Baranch,
Chennai ..2nd Respondent in WP.NOs.8447/2021

M/s.Indian Bank,
Rep.by its Branch Manager,
Thousand Light Branch,
Chennai. ..2nd Respondent in WP.NOs.8927,8952/2021

M/s.HDFC Bank Ltd.,
Rep by its Branch Manager
ITC CENTER Baranch,
Anna Salai Branch,
Chennai ..2nd Respondent in WP.NO.10679/2021

Common Prayer:Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent in F.No.132(9B)/Chettinad/U-4(2)/2020-21 in issuing the warrant for attachment of properties under Section 132(9B) of the Income Tax Act, 1961 dated 22.03.2021 and quash the same.

For Petitioner in all WPs : Mr.R.Sivaraman
For first respondent in all WPs: Mr.A.N.R.Jayaprathap
Junior standing counsel
For second respondent in
W.P.Nos.8441, 8451, 8869
& 8893 of 2021
W.P.No.8447 & 10679 of 2021 : Mr.C.Mohan
for M/s.King and Patridge

For second respondent in
W.P.No.8927 & 8952 of 2021 : Ms.Rita Chandrasekar
for M/s.Aiyar & Dolia

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COMMON ORDER

This common order will dispose of all the eight captioned writ petitions and 'writ miscellaneous petitions' [hereinafter 'WMPs' in plural and 'WMP' in singular for the sake brevity of convenience and clarity] therein.

2. Mr.R.Sivaraman, learned counsel for writ petitioner in all the eight writ petitions, Mr.ANR.Jayaprathap, learned

Junior standing counsel for Income Tax Department on behalf of the first respondent in all the eight writ petitions and Mr.C.Mohan learned counsel of M/s.King and Patridge (Law Firm) on behalf of second respondent (Bank) in W.P.Nos.8447 and 10679 of 2021 are before this Virtual Court.

3. In WP.Nos.8441, 8451, 8869 and 8893 of 2021 where State Bank of India is second respondent, as this Court is informed that M/s.King and Partidge is in the Bank panel of counsel, this Court requested Mr.C.Mohan, learned counsel of M/s.King and Patridge (Law Firm) to accept notice on behalf of second respondent in W.P.Nos.8441, 8451, 8869 & 8893 of 2021. Learned counsel accepted notice and the same is recorded in this order and it will be reflected in the order of this Court before uploading/issuing certified copies of the order. Likewise, Ms.Rita Chandrasekara, learned counsel of M/s. Aiyar and Dolia (Law firm) joined this virtual hearing and this Court requested learned counsel of said Law firm to accept notice on behalf of Indian Bank which is second respondent in WP.Nos.8927 and 8952 of 2021. Learned counsel accepted notice and the same is recorded and this shall also be reflected in the order of this Court before uploading/issuing certified copies of the order.

4. The above completes counsel representation qua array of parties in all captioned eight writ petitions. In other words, all the parties before this Court in all the captioned eight writ petitions are now represented by their respective counsel. This takes us to the writ petitions.

5. All the captioned writ petitions have been filed, assailing an 'order of provisional attachment' [hereinafter 'impugned orders' in plural and 'impugned order' in singular for the sake of convenience and clarity] qua writ petitioner in each of the writ petitions made under Section 132(9B) of the 'The Income-tax Act, 1961 (43 of 1961)' [hereinafter 'IT Act' for the sake of brevity]. All the aforementioned learned counsel submitted in unison in one voice without any disputation or disagreement that all the impugned orders are dated 22.03.2021. Before this Court proceeds further, this Court deems it appropriate to extract and reproduce Sections 132(9B) and 132(9C) of IT Act which read as follows:

> '[Search and Seizure
> 132.(1).......
> (2)........
> (3)........
> (4).......
> (5).......
> (6).....
> (7).......
> (8)......
> (9)......
> (9A)..........
> (9B) Where, during the course of the search or

seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, mutatis mutandis, apply.

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B).

(9D)......

(10).........'

6. It is also a further common say of all the aforementioned learned counsel that the aforementioned provisional assessments i.e., impugned orders ceased to have effect on close of 22.09.2021 as six months from the date of the order of the impugned orders elapsed/expired. In other words, the impugned order have expired as of today (though expired/elapsed on close of 22.09.2021) by operation of Statute i.e., by operation of Section 132(9C) of IT Act.

7. Though the above is the common submission made without any disputation or disagreement and the above is the obtaining legal position, this Court deems it appropriate to refer to the counter affidavit of the first respondent (Income Tax Department) also wherein at Page No.10, it has been averred as follows:

'The order of provisional attachment u/s.132(9B) is temporary in nature and it is issued to protect interest of the revenue.'

8. The above is clearly a reference to Section 132(9C) of IT Act.

9. For the purpose of abundant clarity and specificity, this Court deems it appropriate to set out that there will be no prohibition or restraint pursuant to impugned orders qua attached accounts/deposits etc., now and the second respondent Banks shall act accordingly.

10. As the impugned orders have elapsed (ceased to have effect) by operation of statutory provision, i.e., Section 132 (9C) of IT Act, nothing really survives in the captioned writ petitions. Therefore, captioned Writ Petitions are disposed of, recording the aforesaid undisputed stated position which is the obtaining legal position as well. Consequently, WMPs are disposed of as closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mk/nsa
To

1.The Deputy Director of Income Tax (Inv)
Unit 4(2), Chennai
Room No.125, New Building (First Floor)
New No.46, Old No.108
Nungambakkam High Road
Chennai-600 034.

2.M/s.The Branch manager,
State Bank of India
Gopalapuram Branch
Chennai.

3.M/s.HDFC Bank Ltd.,
Rep by its Branch Manager
R.A.Puram Baranch,
Chennai

4.M/s.Branch Manager,
Indian Bank,
Thousand Light Branch,
Chennai.

5.M/s.Branch Manager,
HDFC Bank Ltd.,
ITC CENTER Baranch,Anna Salai Branch,
Chennai.

+7 ccs to M/s.King and Patridge, Advocate Sr.NO.49306
+8 ccs to Mr.A.P.Srinivas, Advocate Sr.NO. 49272

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RLD (CO)
A.SK(13.10.2021)