

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.10743 of 2019 &  
WMP.No.11215 & 11218 of 2019

B.Manimekalai

...Petitioner

Vs.

- 1.The Deputy Director of Income Tax (INV),  
Unit2(2), New Building, 2nd Floor  
46, Mahatma Gandhi Road,  
Nungambakkam, Chennai-34.
- 2.The Principal Director of Income Tax (INV)  
No.46, Mahatma Gandhi Road  
Nungambakkam, Chennai-34.
- 3.The Income Tax Officer  
Ward-I, Namakkal,  
No.138/3, LMR Shopping  
Arcade, IIIrd Floor,  
Salem Road, Namakkal - 637 001
- 4.The Assistant Commissioner of Income Tax  
Central Circle -2(3),  
Chennai.  
(R4 modified vide this order)
- 5.The Assistant Director of Income Tax  
No.3, Gandhi Road, Salem-7
- 6.The Branch Manager  
Indian Overseas Bank, Thuraiyur Road  
Ganesapuram, Namakkal - 637 001.
- 7.The Branch Manager  
Indian Overseas Bank,  
Namakkal Collectorate Complex,  
Thummankurichi Branch  
Nallipalayam(P.O),  
Namakkal - 637 003.
- 8.The Branch Manager  
State Branch Manager,  
State Bank of India  
No.2, Sankarann Raod  
Namakkal - 637 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directig the 1st to 5th respondents to refund the sum of Rs.16, 20, 000/-

and return the seized jewellery weighing 1357.800 grams on such terms and conditions.

For Petitioner : Mr.N.Umapathi

For Respondents: Mr.ANR Jayaprathap [R1 to R5]  
Junior Panel Counsel

Mrs.C.Sangamithirai [R6 & R7]  
No Appearance [R8]

O R D E R

The correct Assessing Officer is stated to be the Assistant Commissioner of Income Tax, Central Circle 2(3), Chennai/R4. Hence, the cause title stands modified by substituting the aforesaid description of the officer in place of existing R4.

2. Read this order in conjunction with order dated 09.04.2019 reading as follows:

Mr.A.P.Srinivas, learned Senior Standing Counsel, takes notice for respondent 1 to 5 and seeks two weeks' time to obtain instructions/file a counter.

2. The learned counsel for the petitioner states that there is an immediacy for the return of the jewellery, in so far as the sone of the petitioner is due to get married on 08.07.2019, for which the jewellery is required. The learned counsel undertakes that a Bank Guarantee will be given for the full value of the jewellery and that the same may be released forthwith.

3. In view of the said submission, the petitioner is permitted to approach the Assessing Officer with the Bank Guarantee for the appropriate value of the jewellery, to the satisfaction of the Assessing Officer. The Assessing Officer shall consider the same and take appropriate action, if the request of the petitioner is accepted, prior to the next date of hearing.

4. Notice to Respondents 6 to 8 through Court and privately returnable by 29.04.2019.

3. Today Mr.ANR Jayaprathap, learned Junior Standing Counsel informs the Court that the request of the petitioner was considered, the jewellery released and a bank guarantee taken.

4. Pending writ petition, an order of assessment has been made consequent upon the search under Section 132 of the Income Tax Act, 1961 (in short 'Act') and the assessment has also been assailed in appeal, which is pending before the appellate

authorities. The petitioner appears to have also moved a representation dated 19.05.2022 seeking refund of tax that, according to the petitioner, has been paid in excess.

5. Mandamus is thus issued to the Assistant Commissioner of Income Tax, Central Circle 2(3), Chennai/R4 to consider the representation dated 19.05.2022 in accordance with law and dispose the same within a period of two weeks from today.

This writ petition is disposed as above. Connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Deputy Director of Income Tax (INV),  
Unit2(2), New Building, 2nd Floor  
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Nungambakkam, Chennai-34.
- 2.The Principal Director of Income Tax (INV)  
No.46, Mahatma Gandhi Road  
Nungambakkam, Chennai-34.
- 3.The Income Tax Officer  
Ward-I, Namakkal,  
No.138/3, LMR Shopping  
Arcade, IIIrd Floor,  
  
Salem Road, Namakkal - 637 001
- 4.The Deputy Commissioner of Income Tax  
Central Circle -2(4),  
No.108, Mahatma Gandhi Road,  
Chennai-34.
- 5.The Assistant Director of Income Tax  
No.3, Gandhi Road, Salem-7
- 6.The Branch Manager  
Indian Overseas Bank, Thuraiyur Road  
Ganesapuram, Namakkal - 637 001.

7.The Branch Manager  
Indian Overseas Bank,  
Namakkal Collectorate Complex,  
Thummankurichi Branch  
Nallipalayam(P.O),  
Namakkal - 637 003.

8.The Branch Manager  
State Branch Manager,  
State Bank of India  
No.2, Sankarann Raod  
Namakkal - 637 001.

+1cc to Mr.A.P.Srinivas Senior SC, Advocate, S.R.No.40322  
+1cc to M/s.N.Umapathi, Advocate, S.R.No.40682

W.P.No.10743 of 2019 &  
WMP.No.11215 & 11218 of 2019

GPL(CO)  
SB(18/07/2022)