20.07.2023
PB
Sl. No.2.

WPA 16133 of 2023

Mukti Binod Das
Vs
The Union of India & Ors.

Mr. Supriyo Chattopadhyay,
Mr. Sudip Kumar Maiti,
Ms. Debasree Chatterjee.
... For the Petitioners.
Mr. B. P. Banerjee,
Ms. Aishwarya Rajyashree.
.......for the CGST.
Mr. Rananjay Chatterjee,
Mr. Aveek Biswas.
.........for the UOI.
Mr. Debashis Saha.
......for the SBI.

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition on the alleged ground of non-service of order in original dated 29th January, 2013, under Finance Act, 1994 and has also challenged the impugned order of freezing of the debit transaction of bank account in question of the petitioner by order dated 21st June, 2023 being Annexure P-11, to the writ petition. Petitioner submits that in spite of asking the respondent for furnishing the aforesaid order in original several times, but the same was not furnished to the petitioner and during the pendency of this writ petition, petitioner has served by a forwarding letter dated 4th July, 2023 as appears from Annexure P-17, to the supplementary affidavit to the writ petition.

Mr. Banerjee, learned advocate appearing for the CGST authority submits that at the relevant point of time also the aforesaid order in original was furnished to the petitioner which has been highly disputed by the petitioner. Petitioner submits that he wants to avail the remedy of appeal against the aforesaid order in original and further agrees to pay the full amount of tax in cash arising out of the aforesaid order in original and for the balance penalty and interest till date, petitioner is agreeable to furnish the bank guarantee subject to satisfaction of the respondent authorities concerned.

Considering the facts and circumstances of the case and taking into consideration that the petitioner is ready and willing to file the statutory appeal against the aforesaid order in original though the service of the order in original is disputed, in the interest of justice, petitioner is allowed to file the statutory appeal against the aforesaid order in original before the appellate authority concerned and for the purpose of limitation for filing the appeal time of limitation will be computed from the date of 5th July, 2023, when the order in original was furnished to the petitioner during the pendency of the writ petition. So far as staying of the impugned orders of freezing of debit transaction of bank account of the petitioner is concerned, the same shall be stayed if the respondent bank authority concerned/respondent no.7 shall make the payment of the tax including education cess amounting to Rs.21,94,117/- from the bank account of the petitioner having Account No.34548909996 and IFSC-SBIN0063805, within three days from the date of communication of this order with due intimation to the petitioner. Petitioner shall also execute a bank guarantee subject to the satisfaction of the respondent authority concerned for penalty and interest till date arising out of the impugned order in original, within three days after the payment of the demand by the bank to the respondent authorities concerned. In case of compliance of the aforesaid conditions by the petitioner, the respondent bank concerned shall allow the petitioner to operate the bank account in question which has been referred to Annexure P-11 to the writ petition. All further action of the respondent authorities concerned shall depend upon the final outcome of the appeal to be filed by the petitioner.

It is also clarified that the petitioner will be entitled to file the appeal against the order in original only after compliance of the aforesaid conditions in this order. It is observed that the payment made by the petitioner by the order of this Court will be subject to the final outcome of the appeal in question.

Learned advocate for the respondent bank submits that payment to be made by the bank as per the order of this Court will be subject to terms and conditions of account between the petitioner and bank.

With this observation and direction, this writ petition being WPA 16133 of 2023 is disposed of.

(Md. Nizamuddin, J.)