IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.953 OF 2023

Kanjibhai Bhagwanbhai Tandel
Age – 69 years, occ. Business
K.K. Marg, Main Road,
Opp. UCO Bank,
Nani Daman-396 210.
PAN : AGJPM3218R ... Petitioner
Versus
1. The Assistant Commissioner of Income Tax, Vapi Circle, Vapi
Fortune Square-2,
Vapi Daman Raod, Chala,
Vapi, Gujara-396 191

2. The Principal Commissioner of Income Tax, Valsad
301, Palak Arcade, Shanti Nagar,
Tithal Road, Valsad,
Gujarat-396 001 ... Respondents

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Mr. K. Gopal a/w Mr. Jitendra Singh i/b Mr. Om Kandalkar for the Petitioner.
Mr. Suresh Kumar a/w Mr. Vaibhav Date i/b Ms. Swapna Gokhale for the Respondents.

* * *

CORAM : DHIRAJ SINGH THAKUR &
ARIF S. DOCTOR, JJ.

DATE : 27 JANUARY 2023

P.C.

. Rule, returnable forthwith. By consent of parties, the matter is taken up for final disposal.

2 The Petitioner claims that certain jewellery items were seized during the search operation conducted in the premises as early as on 18 June 2013. Subsequently, an application for release of the jewellery so seized was made before the Assistant Commissioner of Income Tax, Vapi Circle, Vapi, who, however, claims that it did not have requisite jurisdiction to decide the matter. He, accordingly, vide a communication 29 July 2013, informed the Deputy Director of Income Tax (Investigation) Valsad. Subsequently, vide communication dated 28 November 2016, the Assistant Commissioner of Income Tax, Central Circle-1, Vapi refused to release the seized items on the ground that there was an outstanding demand of Rs.17.39 crores against M/s Krimpi Distillery, in which the Petitioner's wife Smt. Hansaben K. Tandel was also a partner. It was, thus, stated that there was an appeal pending against the Order dated dated 29 February 2016 as also the penalty proceedings under Section 271AAB and 271(1)(c) of the Income Tax Act, 1961. It was, thus, stated that the prayer of the Petitioner for release of the jewelry was premature and could not be considered at that stage.

It was urged that all proceedings, which were otherwise mentioned in the communication dated 28 November 2016, have since attained finality and, therefore, there was no impediment for release of the seized items. Reliance is placed upon the Order of he Tribunal dated 7 March 2022 passed in the case of M/s Krimpi Distillery. It is stated that the entire demand of Rs.17.39 crores has been deleted by virtue of the Order passed by the tribunal.

3 Be that as it may, considering the limited nature of controversy in the present case, we deem it appropriate to dispose of the matter with a direction to the concerned assessing officer to consider the prayer of the Petitioner for release of the seized items in view of the subsequent development narrated hereinabove, strictly in accordance with the provisions of law. A decision be taken not later than one month from today. Writ Petition is disposed of accordingly.

(ARIF S. DOCTOR, J.) **(DHIRAJ SINGH THAKUR, J.)**

RAJESH VASANT CHITTEWAN

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Date: 2023.02.04 12:03:37 +0530