IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.6195 of 2022
and
W.M.P.No.6264 of 2022

Shri.G.K.Reddy ... Petitioner

Vs

The Deputy Commissioner of Income Tax,
Corporate Circle 1(1),
Chennai. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondent to lift the attachment bearing Account No.64000304842 and 57002167239 maintained at State Bank of India, Anna Nagar Roundatana Branch and Anna Nagar East Branch respectively.

For Petitioner : Mr.M.Vijayakumar

For Respondent : Mr.Prabhu Mukunth Arun Kumar
Junior Standing Counsel
and
Mr.B.Ramana Kumar
Senior Standing Counsel

ORDER

The petitioner *octogenarian* and a senior citizen has filed this writ petition for a Writ of Mandamus to lift the Order of Attachment attaching his Bank Account No.64000304842 and 57002167239 of the petitioner.

2. The petitioner had suffered adverse Assessment Orders in the hands of the Assessing Officer for the period 2007-2008, 2008-2009, 2010-2011 and 2013-2014.

3. As far as Assessment Year 2008-2009 and 2010-2011 are concerned, the petitioner had taken up the matter to the Income Tax Appellate Tribunal in ITA.Nos.3353/Chny/2019 and 3354/Chny/2019. The Appellate Tribunal had dismissed these appeals on 28.10.2022.

4. As far as Assessment Year 2007-2008 and 2013-2014 are concerned, the appeal of the petitioner before the Appellate Commissioner were dismissed on account of delay in filing appeal.

5. The petitioner had filed appeal in ITA.Nos.3352/Chny/2020 &

3355/Chny/2020 for the Assessment Year 2013-2014. Earlier, the petitioner had also approached this Court in W.P.No.1140, 1144 & 1147 of 2020. The petitioner challenged the order dated 03.01.2020 passed by the Tribunal., wherein the petitioner was put to terms.

6. This Court, by its order dated 29.01.2020, directed the petitioner to pay a sum of Rs.25,00,000/- in three installments with the following directions:-

> *"6. Taking into consideration the financial crunch faced by the petitioner, it is appropriate to direct the petitioner to pay a sum of Rs.25,00,000/- in three instalments viz., Rs.10,00,000/- on or before 28.02.2020, Rs.7,50,000/- on or before 31.03.2020 and Rs.7,50,000/- on or before 30.04.2020. On such payment, the stay petitions filed by the petitioner before the Tribunal shall stand allowed and the stay will be in force till the disposal of the appeals."*

7. The petitioner has remitted only the first installment for a sum of Rs.10,00,000/- pursuant to the order of the Hon'ble Division Bench of this Court. The petitioner has not deposited the second and the third installment as per the above order of the Hon'ble Division Bench of this Court in the above writ petitions.

8. The appeal filed before the Tribunal itself came to be disposed on 04.03.2020 as is evident from reading of the counter affidavit filed by the respondent remitting the case back to the Appellate Commissioner.

9. It is the case of the petitioner that the petitioner is a retired employee from the Central Government Ministry of Defence and a pensioner whose pension has been blocked and therefore the order of attachment of his bank account be lifted.

10. Opposing the prayer, the learned Senior and Junior Standing Counsel for the respondents submits that the petitioner is receiving not only pension but also amounts from M/s.G.K. Granites Limited and M/s.G.K.Transport proprietory concern and that there are huge amounts of deposits that lying in the petitioner's account and therefore it would not be appropriate to lift the Order of Attachment unless the petitioner complies with the order passed by the Hon'ble Division Bench of this Court.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior and Junior Standing Counsel for the respondent. The pension amount cannot be attached.

12. The respondent is directed to lift the Order of Attachment in so far as the pension of the petitioner is concerned. However, there shall be an embargo on the petitioner from withdrawing any other amounts deposited in the attached account.

13. It is made clear that only the pension that is credited by the pension paying authority shall be allowed to be withdrawn. Respondent shall send suitable communication to the Bank.

14. Meanwhile, the Appellate Commissioner shall dispose of the appeals which have been remanded back to the Appellate Commissioner as expeditiously as possible preferably within a period of three (3) months from the date of receipt of a copy of this order.

15. The writ petition stands disposed of with the above observations and directions. No cost. Consequently connected miscellaneous petition is closed.

13.07.2023

Neutral Citation: Yes/No
Index : Yes/No
Speaking/Non-Speaking Order
rgm

To

The Deputy Commissioner of Income Tax,
Corporate Circle 1(1),
Chennai.

C.SARAVANAN, J.

rgm

W.P.No.6195 of 2022
and
W.M.P.No.6264 of 2022

13.07.2023