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W.A.No.2393 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.10.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.2393 of 2023
AND
C.M.P.Nos.20131 & 20133 of 2023

G.K.Reddy

.. Appellant

Vs.

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

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 13.07.2023 passed by the learned Judge in W.P.No.6195 of 2022.

For Appellant : Mr.Bhuvaneswaran
for Mr.M.Vijayakumar
For Respondent : Mr.Prabhu Mukunth Arunkumar
Senior Standing Counsel

JUDGMENT

(Judgment of the court was delivered by R. MAHADEVAN, J.)

Heard both sides and perused the documents enclosed in the typed set of papers.



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2.The appellant / assessee preferred W.P.No.6195 of 2022 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.

3.By order dated 13.07.2023, the learned Judge disposed of the aforesaid writ petition, with the following observations and directions:

"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13.It is made clear that only the pension that is credited by the pension paying authority shall be allowed to be withdrawn.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."

Aggrieved by the aforesaid order passed by the learned Judge, the writ petitioner has preferred this writ appeal.

4.When this writ appeal came up before us on 14.09.2023, considering the age and ailment of the appellant and also in view of the fact that one of the bank accounts of the appellant relate to pension accruing account, we passed the following order, as an interim measure, for usage of the appellant to meet out his necessities:



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“(i)The bank account bearing no.57002167239 relating to pension amount, shall be released from attachment and out of available amount of Rs.15,48,893.66, a sum of Rs.5,00,000/- be retained in the said account and the total balance amount of Rs.10,48,893.66 be transferred to the other account bearing no.64000304842, which is under attachment.

(ii)The appellant is entitled to use the pension account and make all the transactions with it.

(iii)The other account bearing no.64000304842, shall be continued in attachment until further orders.”

5.Today, when the matter was taken up for hearing, the learned counsel for the appellant drew the attention of this court to the affidavit filed by the appellant dated 27.09.2023, wherein, it is stated as follows:

"2.I state that as per direction of this Hon'ble High Court of Madras I am filing this sworn affidavit. My Bank Account No.57002167239 is the pension accruing account with monthly pension Rs.40,424/-. My account was frozen on 04.03.2022. In my pension account, the balance amount as on 04.03.2022 was a sum of Rs.2,24,843/-.

3.I further state that my total pension amount for the period from March, 2022 to July, 2023 is totally a sum of Rs.6,92,405/-. There is arrears of pension on the basis of pay commission credited into my account on 31.08.2023 by pension authority to a sum of Rs.5,02,645/-. These amounts are pension amount which is credited during the period of attachment of my Bank Account.

4.I further state that in view of the above said fact that totally a sum of Rs.14,19,893/- is completely a pension amount lying in my pension account and Rs.1,35,000/- which is other than pension amount. As on 31.08.2023 total account balance Rs.15,54,893/- (2,24,843 + 6,92,405 + 5,02,645 + 1,35,000)."

That apart, the counsel for the appellant filed the statement of pension account in the form of additional typed set of papers and submitted that the appellant may be permitted to operate his pension accruing account for meeting out his health issues.



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6.This court perused the bank account statement of the appellant, which makes it clear that the entire pension amount with arrears, is lying in the bank account of the appellant bearing No.57002167239. It is also seen that only a sum of Rs.1,35,000/- lying in that account relates to other amount. Therefore, the following directions are issued to safeguard the interest of both the parties:

(a)the appellant is entitled to operate the pension account and make all transactions with the amount lying therein, excluding a sum of Rs.1,35,000/-, which according to the appellant, pertains to other amount.

(b)The above sum of Rs.1,35,000/- alone, shall be transferred from the pension account to the other account bearing Account No.64000304842, which is under attachment.

(c)The other account bearing Account No.64000304842 shall be continued in attachment till the conclusion of the proceedings by the appellate authority.

(d)In other respects, the direction issued by the learned Judge in paragraph 14 of the order impugned herein, shall stand confirmed and the Appellate Commissioner shall dispose of the appeals on merits and as per law, within a period of three months from the date of receipt of a copy of this judgment.



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7. Accordingly, the interim order passed by us earlier on 14.09.2023 is modified and this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D,J.] [M.S.Q, J.]
05.10.2023

Internet : Yes
Neutral Citation : Yes/No
gya

To

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



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