IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.3826 & 3686 of 2024
&
WMP Nos.4133, 4135, 4139, 3979, 3980 & 3982 of 2024

Raj Educational Trust,
Represented by its Managing Trustee,
B.Renuka Devi,
Old No.14, New No.29,
Raman Street, T.Nagar,
Chennai-600 017. ... Petitioner in both WPs

vs

1. The Deputy Commissioner of Income-Tax (Exemptions)
Chennai,
121 MG Road,
Nungambakkam, Chennai 600 034.

2. The Commissioner of Income Tax (Appeals)
Faceless Assessment Centre
121 MG Road,
Nungambakkam, Chennai 600 034. ... Respondents 1 & 2 in both WPs

3. Indian Overseas Bank, Thanjavur Branch,
Represented by its Branch Manager,
No.377, North Main Street,
Thanjavur-613 009. ... 3rd Respondent in W.P.No.3826/2024

4. Indian Overseas Bank, Thanjavur Branch,
Represented by its Branch Manager,
No.377, North Main Street,
Thanjavur-613 009. ...3rd Respondent in W.P.No.3686/2024

PRAYER in W.P.No.3826 of 2024 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent pertaining to DIN & Letter No. ITBA/COM/F/17/2023-24/1060516741(1) dated 05.02.2024 and quash the same and consequently direct the respondents 1 to 3 to lift the attachment on the following savings bank accounts of the petitioner maintained in the 3rd respondent Bank forthwith :

Sl No	Account Number	Account Type	Balance	Branch Station
1.	136401000031004	Savings Account	26,302.00	North Main Street, Thanjavur

2.	136401000029335	Savings Account	5,201.00	North Main Street,Thanjavur
3.	136401000030998	Savings Account	11,192.00	North Main Street Thanjavur
4.	136401000031001	Savings Account	6,151.00	North Main Street, Thanjavur
5.	136401000029772	Savings Account	5,967.00	North Main Street Thanjavur
6.	136401000031003	Savings Account	14,919.00	North Main Street Thanjavur
7.	136401000029334	Savings Account	6,940.00	North Main Street Thanjavur
8.	136401000029331	Savings Account	5,728.00	North Main Street Thanjavur
9.	136401000030999	Savings Account	5,791.00	North Main Street Thanjavur
10.	136401000031002	Savings Account	10,993.00	North Main Street Thanjavur

11.	136401000029332	Savings Account	8,503.00	North Main Street Thanjavur
12.	136402000001021	Current Account	23,805.35	North Main Street Thanjavur
13.	136402000001234	Current Account	877,075.00	North Main Street Thanjavur
14.	136402000001000	Current Account	16,044.20	North Main Street, Thanjavur
15.	136402000001101	Current Account	17,394.60	North Main Street, Thanjavur
16.	136402000000661	Current Account	655,812.00	North Main Street, Thanjavur
17.	136402000000985	Current Account	6,218.09	North Main Street, Thanjavur
18.	136401000020137	Savings Account	65,656.00	North Main Street, Thanjavur
19.	136401000021965	Savings Account	6,060.50	North Main Street, Thanjavur
20.	136401000021966	Savings Account	404,280.00	North Main Street, Thanjavur

21.	136401000023791	Savings Account	4,089.15	North Main Street, Thanjavur
22.	136401000029769	Savings Account	37,880.80	North Main Street, Thanjavur
23.	136401000030393	Savings Account	14,557.00	North Main Street, Thanjavur
24.	136401000031005	Savings Account	38,328.00	North Main Street, Thanjavur
25.	136401000031006	Savings Account	16,275.00	North Main Street, Thanjavur

PRAYER in W.P.No.3686 of 2024 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent pertaining to DIN & Letter No. ITBA/COM/F/17/2023-24/1060521450(1) dated 05.02.2024 and quash the same and consequently direct the respondents 1 to 3 to lift the attachment of the savings bank account of the petitioner bearing account number 6002000006789 in the 3rd respondent Bank forthwith.

In both WPs:

For Petitioner : Mr.P.Wilson, Senior Counsel
for Richardson Wilson

For Respondents : Mr.P. Prithvi Chopda,
Standing Counsel (Corporation)

COMMON ORDER

In both these writ petitions, orders of attachment of the petitioner's bank accounts are challenged.

2. The petitioner runs educational institutions under the name and style of 'Kings College of Engineering' and 'Queens College of Arts and Science for Women'. The petitioner Trust is registered under Section 12-A of the Income-tax Act, 1961 (the Income-tax Act) and a certificate has also been issued under Section 80 G thereof to the petitioner. The matter pertains to the receipt of a sum of Rs.2,57,00,000/- from M/s.Golden Vats Private Limited on 02.05.2017. On the suspicion that the said amount was received as cash, a notice under Section 143(2) of the Income-tax Act and a subsequent notice under Section 142(1) were issued to the petitioner in 2019. The petitioner responded to such notices and pointed out that the amount was received as donation under Cheque No.119160

dated 02.05.2017. Eventually, an order dated 05.02.2022 came to be issued under Section 271 DA of the Income-tax Act imposing penalty of Rs.2,57,00,000/-, which is equivalent to the amount remitted into the petitioner's accounts, for violation of Section 269 ST of the Income-tax Act. This was followed by the impugned attachment notices. Meanwhile, the petitioner had filed an appeal on 05.03.2022 before the Commissioner of Income-tax (Appeals).

3. Learned senior counsel for the petitioner invited my attention to the communication dated 18.12.2020 from M/s.Golden Vats Private Limited and pointed out that the donor stated expressly that the amount was paid as a donation under Cheque No.119160 dated 02.05.2017. In spite of such communication, he points out that the penalty of Rs.2,57,00,000/- was imposed merely because the bank had not confirmed the mode of payment of the said sum. By also placing on record the statement issued by the Indian Overseas Bank in respect of the relevant bank account of the petitioner, he contends that the said statement clearly indicates that the amount was remitted

under cheque No.119160.

4. After pointing out that a statutory appeal was filed against the said order, he further submits that arguments were concluded in the appeal and that the appellate authority reserved orders on 09.02.2024. In the above facts and circumstances, learned senior counsel submits that the attachment of the petitioner's bank accounts has gravely prejudiced the petitioner and that the petitioner is unable to disburse payments for the various purposes indicated in paragraph 4 of the additional affidavit dated 19.02.2024.

5. In response to these contentions, Mr.V.Mahalingam, learned senior standing counsel, submitted that the principles of natural justice were adhered to before issuance of the order dated 05.02.2022. As against the said order, he submits that a statutory appeal was filed. He points out that the petitioner did not apply for or obtain a stay of the order impugned therein. Therefore, learned counsel

submits that this Court should not exercise discretion in favour of the petitioner and that the petitioner should be directed to seek a stay in the pending proceedings or be directed to approach the assessing officer with the additional evidence placed before this Court.

6. Since a statutory appeal was filed against the order issued under Section 271 DA of the Income-tax Act, it is not appropriate to record definitive conclusions on the issues raised in the said order. However, the petitioner has placed on record evidence that *prima facie* indicates that the receipt of Rs.2.57 crore was under Cheque No.119160 issued by M/s.Golden Vats Private Limited. If the petitioner is able to satisfy the appellate authority that the said remittance was indeed made by a cheque, the order imposing penalty would be unsustainable. Meanwhile, on account of the impugned orders of attachment, the petitioner which operates two educational institutions is unable to discharge payment obligations.

7. Therefore, it becomes necessary to balance the petitioner's interest, on the one hand, and safeguard revenue interest, on the other. Towards such end, the petitioner is directed to remit a sum of Rs.12.5 lakhs as a condition for raising the attachment of its bank accounts. Subject to an immediately upon receipt of the said sum, all of the attachment orders impugned herein shall stand raised and the petitioner shall be free to operate its bank accounts. This order is, however, subject to the outcome of the appellate proceedings.

8. W.P.Nos.3686 of 2024 and 3826 of 2024 are disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

27.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY J.

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