IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15181 of 2024 and
W.M.P.Nos.16506 & 16507 of 2024

Mrs.Geetha Nehru .. Petitioner

-vs-

1. The Income Tax Officer,
Non-Corp Ward 5(2), CHE,
Room No.220, BSNL Building,
2nd floor, No.16,
Greams Road, Chennai-600 006.

2.The Branch Manager,
Indian Overseas Bank,
1st floor, KRN Building,
East Parallel Road,
Co-operative Colony, Krishnagiri. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in Bank attachment Notice in DIN and Notice No. ITBA / RCV / S / 226(3)_1 / 2023-24 / 1059839703 (1) dated 18/01/2024 issued under Section 226(3) of the Income Tax Act 1961 by the 1st Respondent to the 2nd Respondent and quash the same.

For Petitioner : Mr.R.Swarnavel

For R1 : Dr.B.Ramaswamy, Senior Standing Counsel

ORDER

A bank attachment notice under Section 226(3) of the Income Tax Act, 1961 is challenged in this writ petition. An assessment order was issued against the petitioner on 25.12.2019. The petitioner carried the matter in appeal before the Commissioner of Income Tax (Appeals) on 24.01.2020. The petitioner asserts that such appeal has not been disposed of in spite of the lapse of about four years.

2. Learned counsel for the petitioner submits that four bank accounts of the petitioner were attached by the 1st respondent earlier and that the bank account in the 2nd respondent bank was attached by the impugned order. Learned counsel submits that the petitioner's business would be paralysed if the impugned order is not interfered with.

3. Dr.B.Ramaswamy, learned senior standing counsel, accepts notice for the 1st respondent. He submits that the petitioner did not file an

application for an interim stay before the appellate authority. If such application is filed, he submits that the same would be dealt with and disposed of in accordance with law. In view of the fact that the statutory appeal is pending before the appellate authority, learned senior standing counsel submits that this Court should decline to exercise jurisdiction.

4. The admitted position is that the statutory appeal against the assessment order is pending before the Commissioner of Income Tax (Appeals). There is nothing on record to indicate that the petitioner filed a stay application before the appellate authority. When such statutory appeal is pending before the appellate authority, I do not consider it appropriate to entertain this writ petition against an attachment notice. However, the statutory appeal has been pending since 2020. Therefore, it is just and appropriate that the same be disposed of expeditiously.

5. For reasons set out above, W.P.No.15181 of 2024 is disposed of without any order as to costs by directing the Commissioner of Income Tax (Appeals) to dispose of the appeal filed by the petitioner bearing Appeal

No.295675371240120 within six months from the date of receipt of a copy of this order. It is also open to the petitioner to file a miscellaneous application seeking interim relief before the appellate authority. Consequently, connected miscellaneous petitions are closed.

20.06.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J

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