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W.P.No.14280 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 14280 of 2025

and

W.M.P.Nos. 16072 & 16073 of 2025

S.Devarajan

...Petitioner

Vs.

1. Union of India,
Rep. by its Secretary to Government,
Ministry of Finance, Income Tax Department
National Faceless Assessment Centre,
Delhi.
2. The Additional Commissioner,
Income Tax Officer,
National Faceless Assessment Centre,
Delhi.
- 3.. The Commissioner of Income Tax Appeal
Income Tax Department
No.108, Uthamar Gandhi Road,
Subba Road Avenue, Nungambakkam, Chennai – 600 034
4. The Assessing Officer Income Tax Department
Ward I, Thiruvannamalai Assessment Circle
1st Floor, Income Tax Office,1600/13, Collectorate Master
Complex, Vengikkal, Tiruvannamalai – 606 604.
5. The Branch Manager,
DBS Bank, No.510-511, Gandhi Road,
Kancheepuram – 631 501.

...Respondents



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Prayer

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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the fifth respondent to lift the attachment of pension been credited in the saving bank account, bearing No.0358321000000074 maintained with the fifth respondent/DBS Bank, Kancheepuram Branch.

For Petitioner : Mr.U.Karunakaran
for M/s.D.Kamachi
For Respondents 1 to 4 : Dr.B.Ramaswamy,
Senior Standing Counsel

Order

Heard Mr.U.Karunakaran, learned counsel appearing for the petitioner and Dr.B.Ramaswamy, learned Senior Standing Counsel who takes notice on behalf of the respondents 1 to 4. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition is filed seeking for an issuance of a writ of mandamus to direct the fifth respondent to lift the attachment of pension been credited in the saving bank account maintained with the fifth respondent/DBS Bank, Kancheepuram Branch.



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3. The learned counsel for the petitioner would submit that the respondent-Department, during the year 2021, issued a notice to the petitioner for non filing of returns for the AY2013-14, immediately thereafter, the petitioner filed returns, declaring his total income as Rs.2,53,460/- based on his pension, however, the respondent-Department alleged that, the petitioner failed to give explanation for the money transaction done in the joint account of the petitioner by his wife, and passed an assessment order, calling the income as 'unexplained income'; that challenging the same, the petitioner filed Appeal; that during the pendency of the Appeal, the fourth respondent initiated recovery action against the petitioner, by virtue of which, the petitioner's bank account came to be attached.

3.1 The learned counsel for the petitioner submits that in terms of Section 11 of the Tamil Nadu Pension Act, 1871, the pension amount is exempted from any attachment for recovery of dues, and in violation of the said provisions, the attachment has been made by the fourth respondent, therefore, seeks for lifting of the bank attachment order.



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3.2 However, the learned counsel fairly submits that since the petitioner has filed challenging the impugned assessment order passed by the second respondent by way of an Appeal before the third respondent, till the disposal of the Appeal, the petitioner may be permitted to withdraw the pension amount, which would be credited to his account monthly for a sum of Rs.48,000/-, and in all other aspects, the attachment may continue, as, the petitioner is a senior citizen and since the petitioner's bank account has been attached, the petitioner has been put to undue hardship, as, he could n't mete out his day-to-day expenses. Therefore, the learned counsel seeks for appropriate direction in this regard.

4. The learned Senior Standing Counsel for the respondents 1 to 4 raised strong for permitting the petitioner to withdraw any amount under the pretext, as cited by the petitioner, inasmuch as, the tax that is liable to be paid by the petitioner is on the higher side, i.e. a sum of Rs.1,07,75,671/-.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.



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6. The petitioner was working as a Deputy Manager in the Lakshmi

Vilas Bank and got retired in the year 2009. During the period of his service, he was filing returns without any default. After his retirement, since his income is reduced to pension, he did not file returns. The petitioner's wife, who was milk vending business, herding cattle's, in the 2010 was not an assessee, as did not earn to pay income tax. However, the petitioner's wife used to do her transaction in the joint account with the petitioner/husband.

6.1 While so, the respondent-Department, during the year 2021, issued a notice to the petitioner for non filing of returns for the AY 2013-14. Immediately thereafter, the petitioner filed returns, declaring his total income as Rs.2,53,460/- based on his pension, but, the respondent-Department alleged that, the petitioner failed to give explanation for the money transaction done in joint account of the petitioner by his wife, calling as "unexplained income" and passed an assessment order. Challenging the assessment order passed by the second respondent, the petitioner preferred an Appeal and during the pendency of the Appeal, the fourth respondent



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initiated recovery action against the petitioner by which, the petitioner's bank account came to be attached.

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6.2 It is the bone of the contention of the learned counsel for the petitioner that in terms of Section 11 of the Tamil Nadu Pension Act, 1871, pension account is exempted from any attachment for recovery of dues. In this context, it would be apposite to refer to Section 11 of the said Act, which is reproduced as under:-

"11. Exemption of pension from attachment.—
No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance, and no money due or to become due on account of any such pension or allowance, shall be liable to seizure, attachment or sequestration by process of any Court 3***, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court."

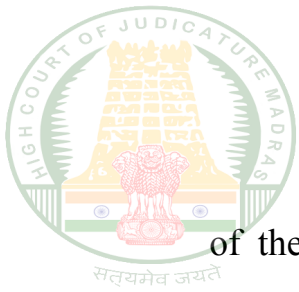


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6.3 Thus, by referring to the aforesaid provisions, the learned

counsel seeks for an order directing the respondent-Department to lift the attachment, because, on account of said attachment, the petitioner, being a Senior Citizen, is facing undue hardship, as he is finding difficult to mete out the day-to-day expenses. However, learned counsel during the course of arguments, restricted his relief, and sought for a direction to lifting up the attachment to the extent that, the petitioner may be permitted to withdraw the pension amount that is being credited to his account monthly.

6.4 Though the learned Senior Standing Counsel for the respondent-Income Tax Department raised strong objection to the relief, now, sought for by the petitioner, considering the fact that the second respondent passed the assessment order dated 25.03.2022, in respect of the alleged transaction that took place a decade ago, i.e. in the year 2013 and challenging the said assessment order, the petitioner also filed an Appeal and the same is pending consideration before the third respondent, however, pending such Appeal, the fourth respondent initiated the recovery action by attachment of the petitioner's bank account, which is being a designated pension account



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of the petitioner and such action is in violation of the provisions of the

Section 11 of the Tamil Nadu Pension Act, 1871 (as referred to supra)

coupled with a further fact that the petitioner has now restricted his relief, to the extent, as noticed above, this Court is inclined to pass the following order:-

i) The attachment order passed by the fourth respondent dated 20.01.2025, stands lifted to the extent, permitting the petitioner to withdraw a maximum sum of Rs.48,000/- (Rupees Forty Eight Thousand only), viz., the pension amount, which would be credited to the petitioner's account every month, except, with the said modification, attachment order shall continue in all other aspects till the disposal of the Appeal.

ii) Insofar as the pension amount that got accumulated in the petitioner's account after the attachment order is concerned, the petitioner shall calculate the amount and furnish a list containing such details, based on which, the respondent-Bank, after verifying the same, is directed to permit the petitioner to withdraw the said amount as well.

iii) It is made clear that the petitioner is only entitled to withdraw only the pension amount that got already accumulated after the attachment order as well the pension amount that would be credited to his account every month and other than that, the petitioner is not entitled to withdraw.



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iv) It is needless to say that the third respondent/Appellate Authority shall consider the Appeal filed by the petitioner dated 07.01.2023 and dispose of the same as expeditiously as possible.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.04.2025

sd

Index : yes/no

Neutral Citation : yes/no

To

1. Union of India,
Rep. by its Secretary to Government,
Ministry of Finance, Income Tax Department
National Faceless Assessment Centre,
Delhi.
2. The Additional Commissioner,
Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

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3.. The Commissioner of Income Tax Appeal

Income Tax Department

No.108, Uthamar Gandhi Road,

Subba Road Avenue, Nungambakkam, Chennai – 600 034

4. The Assessing Officer Income Tax Department

Ward I, Thiruvannamalai Assessment Circle

1st Floor, Income Tax Office, 1600/13, Collectorate Master
Complex, Vengikkal, Tiruvannamalai – 606 604.

5. The Branch Manager,

DBS Bank, No.510-511, Gandhi Road,

Kancheepuram – 631 501.



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Krishnan Ramasamy,J.,

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