

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "K" BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)
And Ravish Sood (Judicial Member)]**

SA No. 337/Mum/2019
(Arising out of ITA No. 7302/Mum/2018)
Assessment year: 2013-14

Cleared Secured Services Pvt Ltd**Applicant**
201-D, Runwal & Omkar E Square
Sion West, Mumbai 400 022 [PAN: AADCC5952H]

Ys

Deputy Commissioner of Income Tax
Circle 6(2)(1), Mumbai Respondent

Appearances by

Devendra Jain for the applicant
Sanjay Singh & Akhtar H. Ansari for the respondent

Date of concluding the hearing : January 20, 2020
Date of pronouncement of the order : January 20, 2020

I N T E R I M O R D E R

1. Upon commencement of proceedings in this bench, and as today this bench was headed by the senior most person at the station i.e. the jurisdictional Vice President, learned counsel for the assessee, sought our permission to make a mention of an urgent matter which deserves to be considered by the bench. The submissions made in the course of mention are broadly the same as set out in the petition filed by the assessee applicant which states as follows:

I, the under signed director of M/s. Clear Secured Services Private Limited (hereafter referred as 'assessee') would like to bring to your notice that Hon'ble 'C' Bench vide order dated 15/02/2019 in SA No. 54/Mum/2019, had granted stay to the assessee against the recovery proceedings initiated by the department, till the time appeal in case of ITA No. 7302/Mum/2018 was disposed or within 180 days from the date of the stay order, whichever was earlier.

The period of 180 days of stay expired on 14/08/2019 and hence we had filed an application for extension of the stay; as there was no default on our part for delay in disposing the appeal. Attached herewith our application for extension of stay in SA No. 337/Mum/2019 filed on 22/08/2019.

Thereafter, the matter of ITA No. 7302/Mum/2018 and SA No. 337/Mum/2019 were taken up together for hearing in "K" Bench on various dates and were finally heard on 10/ 10/2019.

On 17/01/2020, both the above referred matters were put up for clarification. The final order of the matters is pending.

Meanwhile, the department has started resorting to coercive means for recovering the impugned demand. Department had carried out a recovery survey at our premises on 17/01/2020 and issued summons to the Director u/s 131 to appear at camp office on the same day. Thereafter statement of director Shri Vimal Dhar Lalta Prasad Dubey was recorded. Further our bank accounts have been attached vide orders u/s 226(3) on 17/01/2020 at 5.30 p.m. This is despite the fact that our application for extension of stay is pending before the Honorable Tribunal "K" Bench. This act on the part of the department is in utter disregard to the Judicial Discipline and canons of equity and causing enormous hardship to the appellant.

The department is constantly resorting to coercive measures so as to recover the impugned demand and hence, through this application made under second proviso to Section 254(2A), we request your good-self to kindly grant extension on the stay till the time order is pronounced and direct the department to release the attachment of bank accounts forthwith.

Prayer:

In view of the above, the Petitioner humbly prays as under:

- a) *We prays that the recovery proceedings may be stayed till the disposal of the appeal by the Hon'ble ITAT.*
- b) *To restrain the Assessing Officer from taking any coercive action as regards recovery of tax, interest and penalty levied or leviable for the subject assessment year.*
- c) *To forthwith release the attachment of bank accounts*

2. Shri Sanjay Singh, learned CIT(DR) present in the court room, was supplied a copy of the petition filed by the assessee applicant, and he was also requested to address us on as to what was such an urgency that the revenue authorities had to resort to coercive measures even as the Tribunal was *in seisin* of the matter, and the hearing of stay petition was said to be concluded on the immediately preceding working day. Learned CIT (DR) submitted that as he was not conversant with the facts of this case, the application for interim orders may be taken up a little later, and, in the meantime, he will advise the Departmental Representative concerned to assist this bench. In response to a suggestion from the bench, he also agreed to

convey to the field authorities that a *status quo* be maintained till this hearing on the stay petition is concluded.

3. It was in this backdrop that this application was directed to be listed at 2.30 pm before this coram. The matter was then taken up at 2.30 pm, and regular Departmental Representative, dealing with this matter, was present for the revenue authorities.

4. Heard the parties and perused the material on record.

5. We have noted that the hearing of stay petition was concluded, as per information available to us, on 17th January 2020, but the order thereon has not been passed as yet since one of the Members constituting coram of the bench has gone on tour to Delhi benches due to unavoidable official exigencies. In the meantime, however, the revenue authorities have already issued garnishee notices, under section 226(3) of the Income Tax Act, 1961, to the bankers of the assessee on 17th January 2020 itself. Such an undue haste in recovery of the disputed demands, in respect of which the hearing of appeal as also the stay petition is already concluded, is indeed inappropriate. The revenue authorities should have at least waited for the disposal of the stay petition. In these circumstances, we are of the considered view that the garnishee proceedings initiated by the revenue authorities should be placed under suspension till the stay petition is disposed of. As one of the Members constituting coram of the bench which has heard the stay petition is on tour to Delhi as at present and is likely to resume at Mumbai benches only on 27th January 2020, we deem it appropriate to grant interim stay on the proceedings till 29th January 2020, till disposal of stay petition, till the disposal of the appeal, or till further orders in this regard- whichever is earlier. In the meantime, operations of all the garnishee notices issued by the revenue authorities on the bankers of the assessee, on or after 17th January 2020, shall remain suspended. The revenue authorities are further directed not to resort to, or continue with, any other coercive measures also, in the meantime, to recover the disputed outstanding demands impugned in appeal before us. Ordered, accordingly.

6. Learned Departmental Representative is directed to communicate this order to the field authorities immediately. As for the prayer of the learned counsel to provide a copy of this order by hand, the same is accepted and the registry is directed to provide to the parties a copy each of this order ‘dasti’.

7. This interim order, with the limited validity- as set out above, is pronounced in the open court today on the 20th day of January 2020.

Sd/-
Ravish Sood
(Judicial Member)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 20thday of January, 2020

Copies to: (1) *The Applicant* (2) *The respondent*
 (3) *CIT* (4) *CIT(A)*
 (5) *DR* (6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Mumbai benches, Mumbai*