

Court No. - 34

Case :- WRIT TAX No. - 805 of 2013

Petitioner :- Shreemati Devi

Respondent :- The Commissioner Of Income Tax (Central) And Another

Counsel for Petitioner :- Amit Mahjan,Gaurav Mahajan

Counsel for Respondent :- C.S.C,Ashok Kumar,C.S.C.(I.T.D)

Hon'ble Sudhir Agarwal,J.

Hon'ble Dr. Kaushal Jayendra Thaker,J.

1. Heard Sri Gaurav Mahajan,Advocate assisted by Sri Amit Mahajan, learned counsel for petitioner and Sri Ashok Kumar, learned counsel for respondent.

2. Petitioner has sought a writ of mandamus commanding respondent to release all FDR's in the name of petitioner and her children and also to return back the sum of Rs.4,50,000 which was withdrawn from the petitioner's Punjab National Bank, Bighapur account No. 1674 along with interest.

3. It is not in dispute that pursuant to search and seizure conducted on 1.3.2001, aforesaid FDRs etc. were seized. Block Assessment was made by order dated 30th April, 2002 but on petitioner's appeal, same was set aside by Commissioner of Income Tax (Appeals), Kanpur, vide order dated 21.2.2008 and that order was confirmed by Tribunal by rejecting Revenue's appeals. Tribunal also relied on this Court's judgment in Income Tax Appeal No. 506 of 2008 filed by Revenue which was dismissed.

4. The contention on behalf of petitioner is that entire seizure is wholly illegal and respondents have no authority to retain above mentioned item and, therefore, FDRs and Rs.4,50,000/- seized in cash should be returned to petitioner and her children forthwith.

5. Learned counsel appearing for respondents could not dispute that block assessment was set aside by Commissioner of Income Tax and Revenue lost the matter before Tribunal also.

6. Before this Court also he could not show under what authority respondents have continued to withhold aforesaid FDRs and cash of Rs.4,50,000/-. Aforesaid attitude on the part of respondents is clearly arbitrary and shows an attitude of

undue harassment to petitioner in the garb of public Revenue. Interest of public revenue does not authorize Revenue Authorities to work without any authority and create or cause all kinds of harassment to innocent people on the pretext of statutory authority, Revenue Authorities cannot claim liberty/privilege so as to deprive an individual, his property and that too in a manner, which has been found quite unreasonable and wholly without jurisdiction.

7. In view thereof, we find that petitioner has been unduly harassed and withholding by Revenue is illegal, therefore, petitioner is entitled to refund of FDRs and cash amount seized, petitioner also withdrawn unlawfully by respondents from the Bank.

8. In the result, writ petition is allowed. Respondents are directed to release all FDRs seized during seizure and also refund the amount in question, if not already released or refunded. In case FDRs and amount in question are not returned or refunded so far, they shall be returned / refunded forthwith without any further delay alongwith interest @ 18% per annum from the date of seizure till the date of actual returned / refund. Respondents shall be at liberty to recover the said amount of interest from the official(s) concerned who is/are found responsible for such negligence and illegal act, after making enquiry as permissible under law. Petitioner shall also be entitled to cost which we quantify to Rs.25,000/-.

Order Date :- 14.9.2016/Mukesh