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2020

W.P. No.5347 (W) of 2020

Niyasha Barman.

Versus

Income Tax Officer, Ward-3(4)/Balurghat & Ors.

With

W.P. No.5354 (W) of 2020

Narayan Chandra Sarkar.

Versus

Union of India & Ors.

Mr. Himangshu Kr. Ray ... for the petitioners.

Two writ petitions are taken up for analogous hearing as they involve similar issues.

Both the writ petitioners are retired personnel. The writ petitioner in WP No.5347(W) of 2020 is a retired police personnel while the writ petitioner in WP No.5354(W) of 2020 is a retired person from the education department.

The writ petitioner in WP No.5347 (W) of 2020 is receiving pension while the other petitioner is yet to receive his pension.

As against both the writ petitioners, an order of assessment was passed by the Income Tax Authorities.

Being aggrieved by such order of assessment, both the writ petitioners filed individual appeals. There are stay petitions at the behest of the writ petitioners also. The appeal and the stay petitions are yet to be decided by the appellate authority.

Learned Advocate appearing for the petitioners submits that, since the petitioners are retired, they are facing undue hardship by reason of the notice of recovery issued by the revenue authorities. He submits that, usually, appeals against the order of assessment are admitted on the basis of 20% of the amount of revenue demanded. In the case of the writ petition being WP No.5347(W) of 2020, the revenue authorities have received a sum in excess of Rs.2 lakhs already from the bank account of the petitioner while the amount of demand is Rs.10 lakhs. In respect of WP No.5354(W) of 2020, the revenue authorities are yet to receive any amount from the two bank accounts of the petitioners. The amount of demand of the revenue authorities therein is a sum in excess of Rs.12 lakhs.

There subsists an order dated March 20, 2020 passed by the Hon'ble Supreme Court directing the revenue authorities not to initiate any recovery

proceedings during the subsistence of the COVID-19 pandemic. In my view, interest of justice would be subserved by directing the banks of the petitioners to allow the petitioners to operate the bank accounts subject to the bankers' of the petitioner in WP No.5354(W) of 2020 setting apart a sum of Rs.5 lakhs. Such sum of Rs.5 lakhs, the Court is informed, is lying in one of the bank accounts of such petitioner. Such banker will keep a sum of Rs.5 lakhs in a separate interest bearing fixed deposit account with it. Such deposit will abide by the result of the appeal of such petitioner. The bankers of the petitioner of such petition thereafter will permit the petitioner to operate his bank accounts in accordance with law. There will be stay of the order of attachment of the bank accounts subject to compliance of the aforementioned conditions.

So far as the writ petitioner in WP No.5347(W) of 2020 is concerned, since, a sum of Rs.2 lakhs has already been paid by the banker of such petitioner to the revenue authorities, it would be appropriate to permit such petitioner to operate his bank account. The order of attachment issued by the revenue authorities against such bank account of the petitioner in WP No.5347(W) of

2020 is stayed.

It is clarified that these measures are put in place in view of the prevailing COVID-19 pandemic in the country. None of the observations made herein will prejudice any of the parties in the appeal. The appellate authority is at liberty to decide the appeal in accordance with law as expeditiously as possible.

List both the writ petitions before the appropriate Bench upon the resumption of the regular business of the Courts.

The parties are requested to act on a server copy of this order.

(Debangsu Basak, J.)