



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12350 OF 2024

M/s. Sanghvi Dhanrupji Devaji & Co
through its partners Mr. Vinit Ranawat

.. Petitioner

Versus

Union of India & Ors

.. Respondents

Mr. Sham V. Walve, with Mr. Bhavik Chheda i/b Shailesh Chavan,
Advocates for the Petitioner.

Ms. Sushma Nagraj, with Mr. Abhinav Palsikar, *Advocates for the Respondents.*

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CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: DECEMBER 2, 2025

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition has been filed by the Petitioner challenging the Order dated 17th May 2024 passed by Respondent No. 4 rejecting the Application for release of seized jewellery filed by the Petitioner on 6th December 2023.

3. Brief facts of the case are that on 8th November 2023, two persons claiming to be employees of the Petitioner Firm were intercepted by the Railway Police while they were on their way to Jabalpur, Madhya Pradesh for the purposes of displaying jewellery items to various jewellers and for booking orders at Jabalpur, as claimed by the Petitioner. On being intercepted, the jewellery was seized by the Railway Police and later handed over to the Income Tax Department. The Department claims that since the Investigation Wing was not satisfied with the explanations and the documentary evidence produced by the employee during the course of recording statements, the jewellery was requisitioned by the Department under Section 132A of the Income Tax Act, 1961 (**for short 'I.T. Act'**), on 20th November 2023.

4. Consequently, the Petitioner filed an Application [dated 6th December 2023] with the ADIT (Inv.) – 1, Jabalpur for release of the jewellery seized from the possession of one of the employees [Avinash Madhukar Golambade] claiming the seized jewellery to be their stock in trade. Thereafter, the Petitioner filed Writ Petition No. 31810 of 2023 before the Hon'ble Madhya Pradesh High Court *inter alia* seeking a direction against the Department to decide Petitioner's Application dated 6th December 2023. On 8th February 2024, the Hon'ble Madhya Pradesh High Court heard

the matter, and in view of the consensus arrived between parties, directed the Department to decide Petitioner's Application within 30 days from the date of production of the certified copy of the order.

5. Subsequently, the Department filed Review Petition No. 219 of 2024 before the Hon'ble Madhya Pradesh High Court seeking review of the order dated 8th February 2024, to the extent that Respondent No. 2 therein be held at liberty to refer the case to the Jurisdictional Assessing Officer in case it finds itself not to be the Competent Authority to decide the Application. The Court, by consent, allowed this Review Petition and extended the time to decide the Application by 30 days and noted that the Competent Authority shall decide the issue on merits without being influenced by the stand taken by parties.

6. Thereafter on 25th April 2024, the Additional Director of Income Tax, Investigation Jabalpur issued a communication directing the ADIT (Inv.) – 1, Jabalpur to transfer the pending Application to the concerned Jurisdictional Assessing Officer being Deputy Commissioner of Income Tax, Central 2(4), Pune (Respondent No. 4 herein). Upon such transfer, Respondent No. 4 passed the Impugned Order dated 20th May 2024 in the name of the Petitioner's employee, namely Mr. Golambade. It was noted that the Petitioner's charge was held by Deputy Commissioner of Income Tax

Circle 19(3), Mumbai. Ultimately, the Application came to be rejected and it was observed that Mr. Golambade was not able to substantiate the source of the jewellery items seized and the documents placed on record did not support the pleas raised for release of jewellery. Aggrieved by this Order, the Petitioners have filed the present Writ Petition.

7. We note that the Petitioner was directed by a co-ordinate bench of this Court [*vide* Order dated 14th October 2024] to file an Additional Affidavit in support of its contention that the Petitioner was the owner of the gold which was seized [the subject matter of the present proceedings], apart from the oral submissions made by the employees to the concerned officials. Leave was also granted to implead Deputy Commissioner of Income Tax Central Circle 5(3), Mumbai as Respondent No. 5. Pursuant to this, the Petitioner has filed the Additional Affidavit on 25th October 2024. The Respondents have also filed their Affidavit In Reply to the said Additional Affidavit.

8. We have heard Mr. Walve, the learned counsel appearing for the Petitioner and Ms. Nagaraj, the learned counsel appearing for the Respondents.

9. Mr. Walve submitted that the Impugned Order is vulnerable to challenge *inter alia* on the ground of propriety and on this count alone, it should be set aside. He drew our attention to Paragraph Nos. 11.2 to 11.5 of the Impugned Order to say that Respondent No. 4 was not the Competent Authority to decide the Application filed by Petitioner. This argument is based on the fact that Respondent No. 4 herself has stated this in Paragraph No. 11.4 that jurisdiction over the Petitioner does not lie with her office. He submitted that if this was the case, then, the exercise of passing the Impugned Order by Respondent No. 4 would be violative of the directions issued by the Hon'ble Madhya Pradesh High Court *vide* its orders dated 8th February 2024 and 22nd April 2024. Furthermore, he submitted that the reasoning in the Impugned Order is also premised on the fact that the Petitioner's employee, namely, Mr. Golambade, has not filed any Application and hence, the conditions for release of jewellery remained unsatisfied. He submitted that Mr. Golambade was not the concerned person in terms of Section 132B of the Act to have filed an Application and this cannot be a ground to deny release of jewellery by the Respondents.

10. Per contra, Ms. Nagaraj supported the reasoning contained in the Impugned Order and vehemently opposed the argument that the Impugned Order is liable to be set aside. She submitted that the order when

read in its entirety would prove that the Petitioner's plea was rightly rejected. The order must not be read in isolation to say that merely since Respondent No. 4 does not have jurisdiction over the Petitioner, the same is invalid. She further drew our attention to Paragraph No. 10 of the Impugned Order to say that the entire set of facts have been minutely analysed by Respondent No. 4 and the matter has been brought to its logical conclusion. Further, the veracity of the Petitioner's claim of ownership over the jewellery items is highly doubtful due to various discrepancies in the documentary evidence. She also submitted that Respondent No. 4 was the Competent Authority to decide upon the Application filed by the Petitioner since as per the first proviso to sub-clause (i) of Section 132B (1), the person concerned has to make an application to the Assessing Officer who was dealing with the seized assets and in whose possession the assets were. The Assessing Officer of the Petitioner would not have any material or record pertaining to the seizure and would therefore not have been in a position to pass an effective order, and if such Assessing Officer, in fact, passes an order for release, and the Assessing Officer who is dealing with the asset under Section 132 or 132A of the Act is of the opinion that such asset belongs to the person from whose possession it has been recovered, and not liable to be released till the conclusion of the proceedings under Section 148 of the Act, then, there

would be conflicting orders. Accordingly, Ms. Nagaraj urged that the Impugned Order deserves to be sustained.

11. Having heard the learned counsel for the parties, rival submissions now fall for our consideration. From the emerging facts, it is not in dispute that the Department made a statement before the Hon'ble Madhya Pradesh High Court that the Application filed by the Petitioner would be decided on its own merits, with a liberty to transfer the case to the concerned Jurisdictional Assessing Officer holding charge over the Petitioner within the extended time allowed by the Hon'ble Madhya Pradesh High Court. It can be seen that the case was transferred to Respondent No. 4 *vide* a communication dated 25th April 2024 addressed by the Additional Director of Income Tax, Investigation, Jabalpur. However, on perusal of the Impugned Order, it appears that Respondent No. 4 did not hold charge over the Petitioner while this Application was being decided. We find to this extent, the passing of the Impugned Order by Respondent No. 4 runs contrary to the directions issued by the Hon'ble Madhya Pradesh High Court.

12. Ms. Nagaraj at this stage, on instructions, stated that the Petitioner's case is now centralized and the Deputy Commissioner of Income Tax Central Circle 5(3), Mumbai is presently holding charge and having jurisdiction over the Petitioner as well as the Petitioner's employee viz. Mr.

Golambade. In light of this new development, we do not propose to go into the merits of the matter or examine the Petitioner's claim of ownership over the seized jewellery items at this stage. We find that the Impugned Order passed by Respondent No. 4 contravenes the directions issued by the Hon'ble Madhya Pradesh High Court. The Petitioner's Application should have been decided, one way or the other, by the concerned Jurisdictional Officer holding charge over the Petitioner. We may note that the findings in the Impugned Order do not reflect the stand or submissions advanced by Ms. Nagaraj.

13. On the sole ground of propriety and in view of the foregoing discussion, we deem it fit to quash and set aside the Impugned Order dated 20th May 2024 and direct the Deputy Commissioner of Income Tax Central Circle 5(3), Mumbai to decide the Petitioner's Application dated 6th December 2023 afresh. We make it clear that we have not examined the merits of the matter.

14. Hence, we pass the following order:

- i. The Impugned Order dated 20th May 2024 is hereby quashed and set aside;
- ii. Respondent No. 5 i.e. the Deputy Commissioner of Income Tax Central Circle 5(3), Mumbai is hereby

directed to decide the Petitioner's Application dated 6th December 2023 afresh on its own merits and without being influenced by the observations, if any, in this order;

- iii. The Deputy Commissioner of Income Tax Central Circle 5(3), Mumbai would be at liberty to call for necessary or additional documents as evidence and an opportunity of being heard be provided to the Petitioner by issuing notice at least 5 working days in advance;
- iv. The entire exercise be completed as expeditiously as possible and, in any event, within a period of 12 weeks from the date of uploading of this order.

15. Rule is accordingly made absolute and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

16. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]