IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.10.2016**

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.31301 to 31304 of 2016

Rajiv Rai	.. Petitioner in W.P.No.31301 of 2016
Rupal Rai	.. Petitioner in W.P.No.31302 of 2016
Ritika Rai	.. Petitioner in W.P.No.31303 of 2016
Sanjana Rai	.. Petitioner in W.P.No.31304 of 2016

Versus

1.Assistant Commissioner of Income-tax,
Central Circle-2(3),
121, Nungambakkam High Road,
Chennai -600 034.

2.Commissioner of Income-tax,
Central Circle-2,
121, Nungambakkam High Road,
Chennai -600 034.

3.Commissioner of Income-tax (Appeals)-18,
121, Nungambakkam High Road,
Chennai -600 034. .. Respondents in all W.Ps.,

Common Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the first respondent and second respondent to consider and grant the release of the jewellery seized in October, 2012 forthwith and direct the third respondent to consider and dispose of the appeals filed by the petitioner expeditiously.

For Petitioner : Ms.A.Sushma Harini

For Respondents : Mrs.Hema Muralikrishnan

<u>COMMON ORDER</u>

Heard Ms.A.Sushma Harini learned counsel appearing for the petitioner and Mrs.Hema Muralikrishnan, learned Senior Standing counsel appearing for the respondents and with the consent of either side, the writ petitions themselves are taken up for final disposal.

2. In all these Writ Petitions, the petitioners sought for a direction upon respondents 1 and 2 to consider and grant release of their jewellery which was seized during October 2012. The petitioner in W.P.No.31301 of 2016, is the husband of the petitioner in W.P.No.31302 of 2016, father of the petitioner in W.P.No.31303 of 2016 and daughter-in-law of the petitioner.

3. A search and seizure operation was conducted by the respondent Department on 31.10.2012, in the names of various individuals and business entities as well as in the residential premises. Warrants were issued under Section 132 of the Act in the joint names of the petitioner, who formed the constituents of the same family. In the course of the search, jewellery belonging to the assessees were seized and detained by the department. The petitioners' case is that pursuant to the search of the business premises, assessments were framed on various individuals and business and are pending in appeal before the Commissioner of the Income

Tax (Appeals) and that they have been repeatedly requesting for the release of the jewellery and have also deputed their authorised representative to personally meet the concerned officials on several occasions. In this regard, written representations were also given to the respondent on 19.12.2012, and 25.03.2015. It is submitted that the assessee Mrs.Prema Raj, is no more, as she passed away on 29.08.2015. The petitioner Mr.Rajiv Rai, and his two sisters, are her legal heirs. The last of such representation was made on 25.06.2016 before the first respondent stating that the seizure and retention of the jewellery is wholly contrary to law and requested for release of the same and the jewellery seized and retained are of sentimental value to the petitioners, since they constitute family and heirloom jewellery and the assessees have been deprived of the same for all their family functions, festivals and occasions. With these facts, the petitioners have come before this Court.

4. Mrs.Hema Muralikrishnan, learned Senior Standing counsel appearing for the respondents submitted that it is not known as to what is the stage of the proceedings before the appellate authority and in any event, the request made by the petitioner before the first respondent being pending, this Court may issue appropriate direction to the first respondent to consider such request on merits and in accordance with law.

5. The learned counsel for the petitioner, on instructions would submit that the petitioner would be satisfied for the present, if the Court directs the first respondent to consider the petitioners' representation, dated 23.05.2016, for release of the seized jewellery.

6. In the light of the above, there will be a direction to the first respondent to consider the petitioners' representation dated 23.05.2016, for return of the seized jewellery on merits and in accordance with law and pass a speaking order and communicate the same to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

7. So far as the request made by the petitioner to direct the Commissioner of Income Tax Appeals-18, to dispose of the appeals as expeditiously as possible, this Court is not inclined to issue any direction at this juncture. However, it is open to the petitioner to move the Commissioner of Appeals and convince him about the urgency.

In the result, the Writ Petitions are disposed of on the above terms. No costs.

24.10.2016

Index :Yes/No
Internet:Yes/No
pbn

To

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   Central Circle-2(3),
   121, Nungambakkam High Road,
   Chennai -600 034.

2. Commissioner of Income-tax,
   Central Circle-2,
   121, Nungambakkam High Road,
   Chennai -600 034.

3. Commissioner of Income-tax (Appeals)-18,
   121, Nungambakkam High Road,
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T.S.SIVAGNANAM, J.,

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