

COCP-1938-2021

Date of Decision: 24.09.2021

The All India State Bank
Officers Federation

...Petitioner

vs.

M C Singhal

...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia.

Present : Mr. Anand Chhibbar, Senior Advocate assisted by
Mr. Shikhar Sarin, Advocate, Mr. Vaibhav Sahni, Advocate and
Mr. Allevraj Sandhu, Advocate for the petitioner.Ms. Urvashi Dhugga, Senior Standing Counsel, Income Tax
Department.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Sections 10 and 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India, 1950 is for initiating action against the respondent for intentional and willful defiance of order Annexure P-4 dated 25.03.2021 in CWP No.6990 of 2021.
2. Learned Senior Counsel assisted by Mr. Shikhar Sarin, Advocate, contends that vide order dated 25.03.2021, while issuing notice of motion in CWP No.6990 of 2021 in case titled as "All India State Bank Officers' Federation and Anr. Vs. State Bank of India and others", the Hon'ble Division Bench was pleased to pass the following order:

"Learned counsel for the petitioners inter alia contendsthat as per the decision taken by the State Bank of India on15.04.2014 (Annexure P-5), the benefit of LTC which was granted tothe officers was revoked and

this letter was challenged by the Officers of the Association in the High Court of Madras. As per the orders dated 25.04.2014 (Annexure P-8) and 16.02.2015 (Annexure P-9) passed by High Court of Madras, an interim direction was given after taking an affidavit from the petitioners that in case a final decision of the writ petition comes against them, then they will refund the amount of Leave Travel Concession. However, as an interim measure, direction was given to the Bank to release the LTC benefit to all its officers.

Learned counsel for the petitioners further contends that despite the letter dated 15.04.2014 (Annexure P-5), the officers of All India Federation at Chandigarh, were given the benefit of LTC, keeping in view the interim order passed by the High Court of Madras vide Annexures P-8 and P-9. Learned counsel further informs the Court that the writ petition is still pending before the High Court of Madras and has not been decided so far.

Now, the grievance of the petitioners is that Income Tax Department has issued notices to some of the members of the petitioner-federation on various dates, under Sections 142 (1) and 148 of the Income Tax Act, 1961 (Annexure P-10), whereby they have reopened the assessment for the years 2013-14 and 2014-15, against the members of the petitioner-federation.

Learned counsel contends that the benefit of LTC has been given by the Bank keeping in view the interim orders passed by the High Court of Madras. He further contends that concession of leave travel has been exempted from tax under Section 10(5) of the Income Tax Act, 1961. Further, the grievance of the petitioners is that benefit of LTC was extended to the members of the

petitioner-federation, as per Rules 17.1, 17.4 and 17.18 (Annexure P-1), and this benefit could not be withdrawn by simply issuing a letter dated 15.04.2014 (Annexure P-5). In fact, the benefit could be withdrawn only after amendment of the Rules.

Notice of motion for 26.07.2021.

In the meantime, all proceedings initiated by the Income Tax Department against the members of the petitioner-federation as reflected in one such notice (Annexure P-10) issued under Section 142 (1) and 148 of the Income Tax Act, 1961, shall remain stayed.”

but in intentional and willful defiance of the aforementioned order, the Income Tax Department issued notice Annexure P-7 under Section 142 (1) Income Tax Act 1961, to a member of the Association for proceedings in respect of said notice, therefore, the respondent is liable to be proceeded against under the Contempt of Courts Act, 1971 for intentional and willful defiance of order dated 25.03.2021 in CWP No.6990 of 2021.

3. Notice has not been issued in the instant case. However, on 17.09.2021, Ms. Urvashi Dugga, Senior Standing Counsel, Income Tax Department had been asked to assist in the matter.

4. Today, learned Senior Standing Counsel, Income Tax Department has filed reply by way of short affidavit of Dr. Simmi Gupta, Principal Commissioner, Income Tax-I, Aayakar Bhawan, Chandigarh along with Annexures A1 to A3 with Annexure A3 being a communication from the Income Tax Officer (JAO), Ward-2 (1), Chandigarh addressed to Shri Kartar Chand, r/o House No.3258, GF, Sector 44-D, Chandigarh informing him that the demand raised for the assessment year 2013-14 had

been stayed till the disposal of Civil Writ Petition No.6990 of 2021 or further directions of this Court whichever was earlier. The same is taken on record and copy thereof supplied to learned counsel for the petitioner.

5. Learned Senior Standing Counsel for the Income Tax Department further contends that while the respondent retired from service a number of years ago, it is Dr. Simmi Gupta, who is the Principal Commissioner, Income Tax-I, Aayakar Bhawan, Chandigarh. Besides, no details of members of the petitioner- Association have been given in the writ petition, therefore it is not possible for the Income Tax Department to know about the members of the Association to ensure compliance of order dated 25.03.2021 but in case details by way of names, addresses and PAN numbers etc. of the members of the petitioner-Association are placed on record in the writ petition and copy thereof furnished to the Income Tax Department, forthwith action would be taken by the Income Tax Department to ensure compliance with order dated 25.03.2021 in CWP No.6990 of 2021.

6. In the circumstances, learned Senior Counsel assisted by Mr. Shikhar Sarin, Advocate, states that he would file an appropriate application in CWP No.6990 of 2021 giving details of members of the petitioner-Association i.e. names, parentage, addresses and PAN numbers etc.

7. Accordingly, in the light of the position noted above, the instant petition is disposed of as not calling for any action against the respondent under the Contempt of Courts Act, 1971 while granting liberty to the petitioner to file an appropriate application in accordance with law giving

COCP-1938-2021

[4]

details as referred to above in order to enable the Income Tax Department to take steps to ensure compliance with the orders of Hon'ble the Division Bench.

(B.S. Walia)
Judge

24.09.2021

'Amit'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No