



Sr. No.	Date	Orders
%	28.10.2002	<p data-bbox="443 309 1422 439">Present: Mr.M.S.Syali, Sr. Advocate with Mr.Satyen Sethi for the petitioner Mr.R.D.Jolly with Mr.Subhash C. Sharma for the respondents</p> <p data-bbox="443 510 983 542"><u>CWP No.6854/02 & CM 11638/02</u></p> <p data-bbox="443 613 1481 1370">This writ petition under Article 226 of the Constitution of India is directed against: (i) the notice, dated 4 October 2002, issued by the Income-tax Officer Ward 12(2) New Delhi, attaching the bank accounts of the petitioner in the Central Bank of India, Basti, UP for recovery of the outstanding demand pending against the petitioner in respect of assessment year 1999-2000 and (ii) the order dated 11 October 2002, passed by the Commissioner of Income-tax, Delhi-IV New Delhi rejecting the application of the petitioner for stay of the said demand.</p> <p data-bbox="443 1411 1481 1966">The main grievance of the petitioner is that on the one hand the CIT (Appeals) is not disposing of petitioner's application for stay of demand, despite the fact that even arguments in the appeal itself have already been heard, whereafter the petitioner has also filed its written submissions on 1 October 2002 and, on the other, the Department is taking coercive steps to recover the amount in dispute. Mr.Syali, learned senior counsel for the petitioner, would urge that</p> <p data-bbox="1209 2002 1394 2033">...contd/-</p>

2



Sr. No.	Date	Orders
		<p style="text-align: center;">: 2 : [CWP 6854/02]</p> <p>even if it is assumed for the sake of argument that the additions/disallowance made by the Assessing Officer, which has resulted in an additional demand of more than Rs.2 crores, are sustained by the appellate authority, still, on account of huge brought forward losses, the income so computed by the Assessing Officer shall fall short of these ^{losses}, meaning thereby that no amount towards tax etc., shall be amount payable by the petitioner in respect of the relevant assessment year.</p> <p>Mr.R.D.Jolly, learned senior standing counsel for the respondents, who has put in appearance on advance notice, on the other hand submits that the respondents had no option but to attach the bank accounts of the petitioner because the petitioner had failed to comply with the order dated 5 August 2002, passed by the Assessing Officer granting conditional stay on the recovery of the demand. It is urged that in terms of the said order the petitioner was required to deposit 50% of the outstanding demand by 20 August 2002 but it failed to do so. It is also pointed out that it was only in October 2002 that the petitioner approached the Commissioner of Income-tax (Appeals) as also the jurisdictional Commissioner for stay of the demand whereas the Assessing Officer had passed the</p> <p style="text-align: right;">...contd/-</p>

3



Sr. No	Date	Orders
		<p style="text-align: center;">: 3 : [CWP 6854/UZ]</p> <p>order granting conditional stay in August 2002.</p> <p>Having regard to the aforementioned rival stands and bearing in mind the fact that after the passing of order dated 5 August 2002, it was only in the second week of October that the petitioner thought of moving the Commissioner (Appeals) as also the jurisdictional Commissioner for stay of the demand, we find it difficult to hold that the action taken by the respondents in attaching the bank accounts of the petitioner is arbitrary or unwarranted. If the petitioner was aggrieved of the order dated 5 August 2002, it could have promptly taken appropriate steps in the matter.</p> <p>However, in view of the fact that CIT (Appeals) has already heard petitioner's appeal and in fact has called for comments of the Assessing Officer on the written submissions filed by the petitioner, we hope and trust that the Commissioner will try to dispose of the appeal as expeditiously as practicable. We understand that the appeal is now coming up for hearing on 29 October 2002. If for some unavoidable reason the CIT (Appeals) is unable to decide the appeal on merits expeditiously, he shall take a final decision in the petitioner's stay application, dated 16 October 2002, within two weeks from today.</p> <p style="text-align: right;">...contd/-</p>

4



Sr. No.	Date	Orders
		<p data-bbox="842 219 1428 250" style="text-align: center;">: 4 : [CWP 6854/02]</p> <p data-bbox="422 353 1455 459" style="text-align: center;">The petition and the application for interim relief are disposed of in the above terms.</p> <p data-bbox="422 488 1455 654" style="text-align: center;">Copies of the order be issued <u>dasti</u> to counsel for the parties under signatures of the Court Master of this Court.</p> <div style="text-align: right; margin-right: 100px;"><p data-bbox="1193 728 1420 862"><i>D.K. Jain</i> D.K. JAIN, J.-</p><p data-bbox="1045 896 1380 985"><i>Sharda Aggarwal</i> SHARDA AGGARWAL, J.</p></div> <p data-bbox="430 952 726 1019">28 October 2002 "v"</p>