


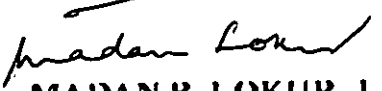


Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ W.P.(C) 20242/2004</p> <p>UCO BANK</p> <p style="text-align: right;">..... Petitioner. Through : Mr. B. Bhattacharya with Mr. Sumant Dey, Advocates.</p> <p style="text-align: center;">versus</p> <p>DPTY. COMM. OF INCOME TAX & ANR. Respondent Through : Mr. R.D. Jolly, Advocate for respondent no.1 with respondent no.1 in person. Mr. Vinay Sharma, Advocate, for respondent no.2.</p> <p>CORAM: HON'BLE MR. JUSTICE SWATANTER KUMAR HON'BLE MR. JUSTICE MADAN B. LOKUR</p> <p style="text-align: center;"><u>ORDER</u> 04.01.2005</p> <p>%</p> <p>We have heard the learned Counsel appearing for the respective parties. The prayer in this petition under Article 226 of the Constitution of India is that respondent no.1 i.e. the Deputy Commissioner of Income Tax, should not proceed with the notice/communication dated 28.12.2004 issued by him to the Bank seeking to recover a sum of Rs.25,28,56,403/- till the proceedings in writ petition no.3768/2002 are pending before the Bombay High Court.</p> <p><u>W.P.(C) No. 20242/2004</u> <u>Page 1 of 3</u></p>



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		<p>We are of the considered opinion that it is not necessary for us to go into the merit or other wise of this writ petition. It will be more appropriate for the petitioner to approach the Bombay High Court for issuance of necessary directions, in the circumstances stated in the writ petition and particularly when their claim is that order passed by the Bombay High Court would not permit them to release the amount to the taxation authorities.</p> <p>During the course of hearing the learned Counsel appearing for the respondent no.1 as well as the private respondent has brought to our notice the order of the Supreme Court dated 21.9.2004 passed in SLP 6221-6222/2001, where the Supreme Court directed as under:-</p> <p>“....Accordingly, we direct the order dated 26,2,2004 passed by the High Court of Jammu & Kashmir at Srinagar in CWP No. 64/2004 to be vacated and further hearing in the writ petition to remain stayed awaiting decision by Delhi High Court or Company Law Board, Principal Bench, Delhi, as the case may be, which would govern the issue arising for decision in the writ petition before the High Court of Jammu & Kashmir at Srinagar.</p> <p>All the learned counsel for the parties agree that the matters pending before Delhi High Court may be taken up for hearing on 27.9.2004 itself. All the learned counsel for the parties further agree to appear before Delhi High Court on that day and to argue the matters without making a prayer for adjournment. We request the learned Single Judge before whom the matters are to come up to give priority to hearing of these matters looking at the nature of controversy which obviously calls for an expeditious hearing and decision.</p> <p>The appeals stand disposed of.</p> <p>We make it clear that the fact that though we have directed the interim order passed by the High Court of Jammu & Kashmir at Srinagar to be vacated, the same is not to be construed as an expression of any opinion on the merits of the case of any of the parties.</p>



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		<p>So also, the above order shall not come in the way of hearing by the Debt Recovery Appellate Tribunal (DRAT), Mumbai of any appeal which lies within its exclusive jurisdiction to hear.</p> <p>In future, if any disputes arises touching the Management of Continental Construction Ltd., then that shall be raised by initiating appropriate proceedings either before Delhi High Court or before Company Law Board, Principal Bench, Delhi, as the case may be, depending upon the nature of the dispute sought to be raised and no other court or tribunal shall entertain such dispute for decision."</p> <p>The notice issued by the Income Tax Department seeks to recover its dues from the Company. Admittedly, Income Tax Department is not a party to the dispute pending before the Bombay High Court. It is not for this court to explain the effect of the interim order upon payment of dues by the petitioner-Bank, where the company is holding an account. In view of the orders of the Supreme Court, as afore-indicated, and the order of the Bombay High Court, we dispose of this petition with liberty to the respective parties to seek such appropriate remedy and/or direction, as are available to them in law.</p> <p>Copy of the order be given Dasti to the counsel for the parties under the signatures of the Court Master.</p> <p style="text-align: right;">  SWATANTER KUMAR, J  MADAN B. LOKUR, J </p> <p>JANUARY 04, 2005 sk</p>