




Sr. No.

Date

Orders

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 20034/2004

M/S SHANKAR TRADING CO. LTD. .... Petitioner

Through Mr. O.P. Vaish, Sr. Advocate with Mr. A. J. Vohra, Mr. Vinay Vaish & Ms. Kavita Jh

versus

THE INCOME TAX APPELLATE TRIBU ..... Respondent

Through Mr. Sanjeev Sabharwal

CORAM:

HON'BLE MR. JUSTICE SWATANTER KUMAR

HON'BLE MR. JUSTICE MADAN B. LOKUR

**ORDER**

22.03.2005

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We have heard learned counsel for the parties.

The challenged in the present writ petition is to the order dated

November, 2004 passed by the Income Tax Appellate Tribunal vide w

the Income Tax Appellate Tribunal rejected the application of the Petiti

for stay of the demand for the years 1994-95 to 1996-1997. Howev

fixed the appeals for hearing, which are stated to be fixed on 5<sup>th</sup> April;

The contention raised before us is that for these three years, which

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		<p>subjudiced before the Income Tax Appellate Tribunal, the balance amount payable as of today is Rs.1,83,25,495/- out of which in the recent time Rs.29 lakhs have also been recovered by the Department by virtue of attachments or other coercive steps.</p> <p>The Petitioner submits that he is a bona fide tax payer and has no intention to evade the payment of tax. He, however, states that as the Petitioner has a good prima facie case to succeed in the appeals before the Tribunal, he would pay a sum of Rs.10 lakhs per month by 7<sup>th</sup> day of each month. The first payment he made on or before 31<sup>st</sup> March, 2005 and has further given undertaking to the Court that he would not alienate, sublet or part with the possession of any of the immovable or movable assets except the sale of products in the normal course of its business during the pendency of the appeals and thereafter it shall govern by such orders, as may be passed by the Appellate Authority or the Assessing Officer in exercise of his powers vested under the provisions of Income-tax Act, 1961.</p> <p>Learned counsel for the Respondent states that in the event the Petitioner strictly adheres to the undertaking given to this Court, the appeal would be heard on 5<sup>th</sup> April, 2005 and decided in accordance with law.</p>



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		<p>In view of the above circumstances, we dispose of this petition with directing the Petitioner that the first Rs.10 lakhs be paid on or before March, 2005. The Petitioner shall also not alienate, sublet or part with possession of any of the immovable or movable assets except in dealing with his goods in the normal course of its business. If the sum of Rs.10 lakhs deposited, the appeal would be heard on merits on 5<sup>th</sup> April, 2005 accordance with law.</p> <p>The orders of attachment issued against the bank accounts of Petitioner and/or its customers would be lifted only upon payment of Rs.10 lakhs as aforesaid and if there is any default in payment of Rs.10 lakhs every month thereafter, the Department would obviously be at liberty to pass such orders of attachment, as they may deem fit and proper in the circumstances of the case. Furthermore, we make it clear that this is an undertaking of Mr.Rajkumar Mehta who states that he has been directed by the Managing Director of the Company to make a statement before the Court that the order afore-mentioned shall be complied with in its true spirit. We accept the statement and undertaking given by him for himself and on behalf of the Managing Director of the Company. We make it clear that in the event of default, both of them shall be liable to be proceeded with under the law.</p>



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provisions of Contempt of Courts Act.

The petition is, accordingly, disposed of.

CM No.16864/2004 also stands disposed of.

SWATANTER KUMAR, J

MADAN B. LOKUR, J

MARCH 22, 2005

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