

Surinder Nath Kapoor

Vs

Union of India and Others

Civil Miscellaneous Petition No. 1545 of 1988

(Ranganath Misra, S. Natarajan, M.N. Venkatachaliah JJ)

05.02.1988

ORDER

1. On October 12, 1987, this Court made the following order :

"Heard learned counsel for the parties. Mr. Manchanda for the department agrees that the tax liability of the petitioner has been reduced to Rs. 3,38,146. Mr. P. N. Mishra, Counsel for the petitioner state in court that this amount has already been paid to the department. In that view of the matter, the petitioner no more owes any tax to the Income Tax Department. The sale already held confirmation of which we had granted shall stand vacated. Special leave petition is disposed of with aforesaid directions."

2. In view what had been said in the order there was no occasion to interpret it to mean that this Court had vacated the stay of further proceeding in appeal relating to the confirmation which were pending before the Commissioner of Income Tax, Jaipur. After the order was shown to him, the Commissioner made the following order :

"The SLP having neither been specifically allowed or rejected but was disposed of "with aforesaid directions", and ex parte stay of confirmation of sale having been specifically vacated and as such, there being no longer any stay of the sale in operation, it is possible to take the view that the status quo stood restored and that the stay and not the sale itself had been vacated and further the appeal which was filed and pending before the CIT Recovery was with the "directions" of their Lordships and in accordance with law."

3. We are of the view that the order of this Court was clear and unambiguous. The net effect of that order was that the auction sale was set aside. There was no scope to interpret that order to mean that the "stay of the sale in operation" was no longer there and the Commissioner was free to deal with the appeal. We are surprised to notice that the Commissioner though it appropriate to comment about the order of this Court in the manner as appearing in the portion within quotation. We have a feeling that the concerned Commissioner has intentionally flouted the direction of this Court and even after the sale was set aside by this Court, he assumed jurisdiction to deal with the matter. This action of his amounts, prima facie, to contempt of this Court. Notice shall issue to him to personally appear and show cause before this Court on March 7, 1988 as to why he shall not be proceeded against under the Contempt of Courts Act.

4. We do not propose to clarify our order dated December 10, 1987 as it is clear and does not

require any clarification. The auction purchaser's petition may be separately registered as a CMP to be dealt with in accordance with law and be listed for directions on March 7, 1988.

Court Master

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