

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (T) No. 5557 of 2014.

M/s Sidhi Vinayak Metcom Limited through
its Director Shri Shivjee Singh, S/o Shri Ram
Bahadur Singh, resident of Goshala Nala
Road, P.O & PS. Jugshalai, Jamshedpur Petitioner

Versus

1. Union of India through Ministry of Finance,
Department of Revenue
2. Commissioner of Income Tax, Circuit House
Area, Jamshedpur
3. The Deputy Commissioner of Income Tax,
Circle-III, Jamshedpur
4. The Assistant Commissioner of Income Tax,
Circle-III, Jamshedpur Respondents.

CORAM: HON'BLE MR. JUSTICE D.N. PATEL
HON'BLE MR. JUSTICE PRAMATH PATNAIK

For the Petitioner : Mr. Ashok Kumar Jha, Advocate
For the Respondents : Mr. Deepak Roshan,

05/Dated: 20th January, 2015
Per D.N. Patel, J.:

1. Counsel appearing for the petitioner submitted that petitioner has challenged the order of reassessment dated 25.03.2014 for the assessment years 2010-11 and 2011-12 which are at Annexures-7/1 and 7 respectively. This petitioner has also challenged the consequential demands dated 25.06.2014 for Rs.48,75,050/- and for Rs.43,12,391/-. This petitioner is also challenging the whole process of reassessment under Section 147 and the notices issued by the respondents; and is also seeking prohibitory order against the impugned order dated 25.03.2014, which are at Annexures-7 and 7/1 and against the demand notices.

2. Having heard counsel for both sides and looking to the facts and circumstances of the case, it appears that the present petitioner- assessee had filed income tax return and assessment order was passed vide order dated 18.09.2010. On 20.01.2012 the assessment was over and thereafter for reassessment the notices under Section 148 were issued. It further appears that reassessment order has also been passed on 25.03.2014. Against this reassessment order under Section 246 of the Income Tax Act, appeal has been preferred before the Commissioner of Income Tax (Appeals). The appeal is pending before the appellate authority. This fact has also been stated in para 30 of the writ petition. Meanwhile, the respondents now have started recovery of

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the amount of income tax which is to be paid by this petitioner in pursuance of the reassessment order. The petitioner is mainly aggrieved by this.

3. As the appeal preferred by this petitioner is pending before Commissioner (Appeals), we are not inclined to decide the issue raised by this petitioner in the petition because the petitioner has already availed the efficacious alternative remedy. Thus, the petitioner is not remediless against the actions of the respondents.

4. So far as the stay against the recovery procedure initiated by the respondents is concerned, as the petitioner has not preferred any stay application before the appellate authority, it is but obvious that the respondent will start the recovery procedure initially by issuing letters and thereafter by coercive methods. Nothing is unusual or illegal in this unless the stay application is preferred and stay is obtained by this petitioner in its appeal which is pending before the appellate authority.

5. As no stay application has been preferred by this petitioner before the Commissioner (Appeals), no illegality has been committed by the respondents in starting different procedures for recovery of income tax which is to be legally payable by the petitioner because of reassessment order passed by the respondents on 25th March, 2014.

6. Hence, there is no substance in the writ petition which is, accordingly, dismissed.

(D.N. Patel, J.)

(Pramath Patnaik, J.)

AKS.Cp.2.