

(2011) 01 MP CK 0030

Madhya Pradesh High Court

Case No: Writ Petition No. 15824 of 2010

Dr. Sadhna Kapoor

APPELLANT

Vs

CIT and Another

RESPONDENT

Date of Decision: Jan. 18, 2011

Hon'ble Judges: Sushma Shrivastava, J; K.K. Lahoti, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

1. Looking to the short controversy involved in this case, we propose to dispose of this matter finally.
2. A search and seizure was conducted in the premises of the Petitioners and inventory of jewellery (Annex. P/2) was prepared which reveals that a total jewellery of Rs. 57,60,510 was seized from the premises of the Petitioner.
3. Learned Counsel appearing for the Petitioner submitted that out of this, Petitioner has already filed return for the asst. yr. 2010-11 disclosing the jewellery of Rs. 31 lakhs and has already paid tax of Rs. 12 lakhs thereon. So far as remaining jewellery of Rs. 27,60,510 is concerned, Petitioner is ready to furnish bank guarantee that in case any amount of tax is assessed on the aforesaid jewellery, Petitioner shall immediately make payment of the aforesaid amount. So far as the jewellery of Rs. 31 lakhs is concerned Petitioner is ready to furnish an indemnity bond to the satisfaction of the authority.
4. Shri Sanjay Lal, learned Counsel appearing for the Respondents submitted that in case of search and seizure amount of tax is higher i.e. 60 per cent of the value of the jewellery so it is expected that on the jewellery seized from the premises of the Petitioner a liability of near about Rs. 35 lakhs may be imposed on the Petitioner has deposited Rs. 12 lakhs along with the return and for remaining amount, if the bank guarantee is furnished and an affidavit is filed by the Petitioner for payment of the tax liability, as may be assessed by the AO, he has no objection, if the aforesaid

jewellery is released to the Petitioner.

5. Considering the aforesaid facts that, the Petitioner has already submitted return for the jewellery of Rs. 31 lakhs and is ready to furnish bank guarantee for the tax liability on the remaining jewellery, we dispose of this matter with the following directions:

(1.) Petitioner to furnish an indemnity bond in respect of jewellery for which the Petitioner has already submitted return for the asst. yr. 2010-11 and has paid tax of Rs. 12 lakhs that in case any further liability- is found by the AO on the aforesaid jewellery, Petitioner shall immediately make payment of the aforesaid tax to the authority;

(2.) Petitioner to furnish bank guarantee to the satisfaction of the Respondent No. 2 that in case any liability is imposed on the jewellery of Rs. 27,60,510, Petitioner shall make payment of the amount so assessed and in case of failure, Department shall be entitled to invoke the bank guarantee;

(3.) Petitioner is further directed to file affidavit to Respondent No. 2 that in case any liability is found on the Petitioner in respect of the aforesaid jewellery or any order is made by the Respondent No. 2 in respect of the aforesaid jewellery, Petitioner shall fulfill her obligation in that regard.

6. On compliance of the aforesaid conditions, the jewellery seized by Annex. P/2 be handed over on Supurdagi to the Petitioner by Respondent No. 2 which shall remain in Supurdagi of the Petitioner till the assessment order is passed by the Respondent No. 2 in this regard.

No order as to costs.