

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH
AT JAIPUR.
ORDER**

(1) S.B. CIVIL WRIT PETITION NO. 4407/2015
WITH
S.B. CIVIL MISC. STAY APPLICATION NO. 3954/2015

JAGDISH
VS.
THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

WITH

(2) S.B. CIVIL WRIT PETITION NO. 4409/2015
WITH
S.B. CIVIL MISC. STAY APPLICATION NO. 3956/2015

JAGDISH
VS.
THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

WITH

(3) S.B. CIVIL WRIT PETITION NO. 4410/2015
WITH
S.B. CIVIL MISC. STAY APPLICATION NO. 3957/2015

JAGDISH
VS.
THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

WITH

(4) S.B. CIVIL WRIT PETITION NO. 4312/2015
WITH
S.B. CIVIL MISC. STAY APPLICATION NO. 3868/2015

SMT. NARANGI DEVI
VS.
THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

WITH

(5) S.B. CIVIL WRIT PETITION NO. 4313/2015
WITH
S.B. CIVIL MISC. STAY APPLICATION NO. 3869/2015

SMT. NARANGI DEVI
VS.
THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

WITH

(6) S.B. CIVIL WRIT PETITION NO. 4318/2015

WITH

S.B. CIVIL MISC. STAY APPLICATION NO. 3873/2015

SMT. JAMNA DEVI

VS.

THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

WITH

(7) S.B. CIVIL WRIT PETITION NO. 4319/2015

WITH

S.B. CIVIL MISC. STAY APPLICATION NO. 3874/2015

SMT. JAMNA DEVI

VS.

THE COMMISSIONER OF INCOME TAX(APPEALS)-RAJ-III, JAIPUR &
OTHERS.

DATE OF ORDER

:

30.04.2015

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Mr. P.K. Kasliwal, for the petitioners.

Mr. Sameer Jain with Ms. Mahi Yadav, for the respondents.

BY THE COURT:

Since all these writ petitions raise similar questions of facts and law, they were heard together and are being decided by this common order. For the sake of convenience, facts of S.B. Civil Writ Petition No. 4407/2015 are taken as the basis.

Petitioner-assessee, Jagdish is an individual residing at Gram Goner, Tehsil, Sanganer Jaipur and having agriculture income. He filed his income tax return on 23.01.2014 in response to notice under Section 148 of the Income Tax Act, 1961(for short 'the Act') issued by the respondents, declaring an agriculture income of Rs. 1,30,000/- for the assessment year 2008-09. The petitioner also

filed objections to the aforesaid notice. The Assessing Officer disposed of the objections vide order dated 13.02.2014 and assessed the income of the petitioner-assessee at Rs. 18,15,460/- and agricultural income at Rs. 1,30,000/- vide order dated 24.02.2014. The petitioner being aggrieved by the aforesaid order, preferred an appeal before the Commissioner(Appeals)-III, Jaipur on 11.04.2014. Thereafter, the petitioner received demand notice dated 18.11.2014 for recovery of aforesaid demand. The petitioner in response to the said notice filed stay application for staying the demand. The petitioner received further notice dated 26.12.2014 for disposal of stay application and the same was duly complied with, but stay application has not been decided and is still pending. Thereafter, the petitioner received another notice dated 13.02.2015 issued by Tax Recovery Officer-III, Jaipur for payment of the demand. The petitioner in response to the same, filed stay application before the Commissioner of Income Tax(Appeals)-III, Jaipur on 02.02.2015 and the same is still pending. The petitioner received a notice dated 16.02.2015 with threat of arrest and attachment without considering the fact that stay application filed by the petitioner is still pending. Hence, the petitioner, apprehending action for enforcement of the demand by the respondents, has approached this Court by way of instant writ petition.

In other writ petitions filed by petitioners-assesseees, Smt. Narangi Devi and Smt. Jamna Devi, similar types of notices have been issued for recovery of demands created in their respective cases and the appeals and stay applications filed by them before the Commissioner of Income Tax(Appeals)-Raj-III, Jaipur. Therefore, they have also filed presents writ petitions.

Learned counsel for the petitioners has contended that limited prayer of the petitioners is that the respondents may not take any coercive action against the petitioners till the appeals filed by the petitioners against the assessment orders are pending, particularly when stay applications filed along with the appeals are not being taken up for hearing by the appellate authority. In support of his arguments learned counsel for the petitioner has relied upon decision rendered by this Court in Maharana Shri Bhagwat Singh Vs. ITAT, 223 ITR Page 192. It is, therefore, prayed that the Commissioner (Appeals)-III, Jaipur may be directed to decide the stay applications or the appeals filed by the petitioners at the earliest.

Learned counsel for the respondents has opposed the writ petitions and submitted that the petitioners have not approached this Court with clean hands and they have concealed the fact that their stay applications have already been dismissed by the concerned Assessing Authority. However, he has not opposed the submission of learned counsel for the petitioners with regard to decisions of stay applications, if not already decided filed with the appeals, by the appellate authority.

Having heard learned counsel for the parties and perused the material on record, this Court is of the view that ends of justice would meet if the Commissioner of Income Tax(Appeals)-Raj-III, Jaipur is directed to decide the stay applications or the appeals filed by the petitioners at the earliest.

In view of above, these writ petitions are disposed of with direction to the Commissioner of Income Tax(Appeals)-Raj-III, Jaipur to at least decide the main appeals itself at the earliest and if that is

not possible, immediately decide stay applications filed by the petitioners in their appeals within a period of fortnight from the date of production of copy of this order before it. The appeals filed by the petitioners should in any case be decided within a period of two months from the date copy of this order is produced before it. However, till decision of stay applications by the Commissioner of Income Tax(Appeals)-Raj-III, Jaipur, interim orders passed by this Court in all these writ petitions shall remain operative.

Stay applications also stand disposed of.

Office is directed to place a copy of this order on record of each connected writ petitions.

(MOHAMMAD RAFIQ),J.

Manoj,
S.NO.90-92 & C1 -4.

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed." MANOJ NARWANI Personal Assistant.