

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY  
AND  
THE HONOURABLE SRI JUSTICE NAMAVARAPU  
RAJESHWAR RAO**

**W.P.No.1728 OF 2025**

**ORDER:** *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Ms. K.Prabhabati, learned counsel representing Mr. A.V.Raghu Ram, learned counsel for the petitioner and Ms. J.Sunitha, learned Junior Standing Counsel for Income Tax for respondents Nos.1 to 3. Perused the record.

2. The challenge in the present writ petition is to the action on the part of respondent No.1 in using garnishee notices dated 08.01.2025 attaching the bank accounts of the petitioner bearing DIN No.ITBA/COM/F/17/2024-25/1071975361(1) (A/c Nos. 50200012980186 and 422560005551 maintained with respondent No. 4), DIN No. ITBA/COM/F/17/2024-25/1071982963(1) (A/c No.131805001664 maintained with respondent No. 5) and DIN No.ITBA/COM/F/17/2024-25/1071975417(1) (A/c Nos. 62053702847 and 33646441970 maintained with respondent No.6). The said garnishee notices seems to have been issued pursuant to an assessment order for the

assessment year 2022-23 and the order of assessment is dated 27.03.2024 and a subsequent penalty order dated 17.09.2024 has been passed. Being aggrieved by the assessment order and the order of penalty passed by respondent No.2, the petitioner herein had preferred two appeals before respondent No.3 on 18.04.2024 along with a stay application. Both the appeal as well as the stay application is still pending consideration before respondent No.3. Meanwhile, the respondents have now issued the said impugned garnishee notices.

3. The learned counsel for the petitioner submits that in the event if the garnishee notices are not set aside at this juncture, the petitioner would be put to substantial inconvenience so far as operating the business is concerned. Further, the fact that the right to appeal having been availed by the petitioner, the respondents should not have invoked coercive steps in between.

4. The learned counsel for the petitioner relied upon a couple of decisions of the Division Bench of this High Court decided in the recent past i.e., order passed in W.P.No.30496 of 2021 decided on 03.01.2022 and also the order passed in W.P.No.1673 of 2022

decided on 17.01.2022 wherein under similar set of circumstances, the Division Bench had granted interim protection while disposing of the writ petitions directing the respondent-authorities to decide the appeal and stay application first before initiating proceedings issuing garnishee notice.

5. Having heard the contentions put-forth on either side and the facts and circumstances of the case, particularly taking note of the fact that challenging the order of assessment dated 27.03.2024 as also the order of penalty dated 17.09.2024, the petitioner had immediately preferred appeal along with the stay application. Both the appeal as well as the stay application is still pending consideration before respondent No.3. Even in the stay petition, more than 10 months have passed, till date the same has not been decided neither is there any progress in the appeal.

6. In the said circumstances, when the petitioner has availed his right of appeal along with the petition for grant of stay, it was incumbent upon the authorities to take up the stay application and decide the same at the first instance or decide the appeal itself as expeditiously as possible rather than sitting over the appeal on the

one hand and at the same time initiating steps for getting the order of assessment and the order of penalty being executed by resorting to coercive steps.

7. For the said reason, we are the considered opinion that the impugned garnish notice dated 08.01.2025 to the aforesaid extent is not sustainable and the same deserves to be and is, accordingly, set aside. The respondents are directed to take up the appeal as well as the stay application at the first stance and thereafter proceed in accordance with law.

8. The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

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**P.SAM KOSHY, J**

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**NAMAVARAPU RAJESHWAR RAO, J**

23.01.2025

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