



**Serial No. 02 & 03**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 52 of 2025 with  
WP(C) No. 65 of 2025

Date of Order: 17.06.2025

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Shri Mitchell Wankhar

..... **Petitioner(s)**

**Versus**

1. The Union of India represented by its Secretary,  
Department of Income Tax, Ministry of Finance
2. Commissioner of Income Tax, Income Tax Department,  
Ministry of Finance, Office of the Income Tax  
ITO, W/2, Shillong
3. Deputy Commissioner of Income Tax, Ministry of Finance,  
Income Tax Department, Ministry of Finance,  
Office of the Income Tax ITO, W/2, Shillong
4. Assistant Commissioner of Income Tax  
Income Tax Department, Ministry of Finance,  
Office of the Income Tax ITO, W/2, Shillong
5. State Bank of India through its representative  
Kench's Trace Branch, Shillong-793004  
East Khasi Hills District, Meghalaya
6. The Meghalaya Rural Bank through its representative  
Lumshatsngi Branch, Shillong-793004  
East Khasi Hills District, Meghalaya

..... **Respondent(s)**

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**Coram:**

**Hon'ble Mr. Justice H. S. Thangkhiew, Judge**  
**Hon'ble Mr. Justice B. Bhattacharjee, Judge**

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**Appearance:**

For the Petitioner(s) : Ms. M.L. Gope, Adv. with  
 Ms. N. Hawelia, Adv.  
 Ms. H. Jain, Adv.  
 Mr. D. Das, Adv.

For the Respondent(s) : Mr. S. Chetia, Adv. (For R 2-4)

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| i)  | Whether approved for reporting in<br>Law journals etc.: | Yes/No |
| ii) | Whether approved for publication<br>in press:           | Yes/No |
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**Per. H.S. Thangkhiew, Judge:**

**JUDGMENT AND ORDER (ORAL)**

1. These two writ petitions being similar in facts and circumstances are being disposed of by this common order.

2. The writ petitioner in these two writ petitions is stated to be a business man belonging to the Khasi Scheduled Tribe community and is before this Court seeking a mandamus to direct the respondents (Income Tax Authorities) for stay of recovery proceedings of an amount mentioned in Demand Notices dated



26.02.2024 in (WP(C) No. 52 of 2025) and 15.02.2024 in (WP(C) No. 65 of 2025) issued under Section 156 of the Income Tax Act, 1961, and for directions not to freeze the Bank Accounts, or to attach the assets, or to take any coercive action until the final disposal of the petitioner appeals under Section 246A of the Income Tax Act, 1961.

3. The brief background facts in WP(C) No. 52 of 2025 are that the petitioner did not file his Income Tax returns for assessment years 2016-17, as he believed that being a member Khasi Scheduled Tribe, his income was not taxable being exempted under section 10(26) of the Income Tax Act, 1961. However, the respondents initiated re-assessment proceedings under Section 148A (d) requiring the petitioner to explain certain deposits. In response thereto, the petitioner had filed his Income Tax returns declaring an income of Rs. 70,53,500/- while asserting that his income was not taxable. An assessment order dated 26.02.2024 was then passed under Sections 147, 144 and 144B treating certain business deposits as unexplained income under Section 69A and consequently, a Demand Notice under Section 156 was issued raising a tax demand of Rs. 14.17 Crores.



4. In WP(C) No. 65 of 2025, the petitioner for the assessment year 2022-23 on 22.07.2023 had filed his Income Tax returns declaring an income of Rs. 4,90,010/- while claiming exemption under Section 10(26). The petitioner's case however, was selected for scrutiny and the Assessing Officer then issued notices under Sections 143(2) and 142(1), questioning the source of the cash deposits, which was replied to by the petitioner, who submitted his response along with supporting documents. However, the respondents issued an assessment order dated 15.02.2024 under Section 143(3) read with Section 144B of the Income Tax Act, 1961, treating certain Bank deposits as unexplained income under Section 69A. A Demand Notice was thereafter issued under Section 156, raising a tax demand of Rs. 13,46,02,272/- against the petitioner.

5. It is the case of the writ petitioner that due to inadequate knowledge of tax procedures and lack of proper advice from his earlier Chartered Accountant, he was unable to file an appeal within the prescribed period, and on realizing the urgency of the matter had then preferred statutory appeals before the Commissioner of Income Tax (Appeals) alongwith applications for condonation for delay, and also for stay of the demand under Section 220(6). In the meantime,



however, the petitioner's Bank Accounts were frozen on instructions from the Income Tax Authorities and were set to be transferred to the Department. The petitioner as the appeals were yet to be admitted or delay condoned, has thus approached this Court seeking to invoke its powers under Article 226 to de-freeze the Bank Accounts and for other reliefs as noted earlier.

6. Ms. M.L. Gope, learned counsel for the petitioner at the outset has submitted that a mandamus under Article 226, is being sought in view of the fact that the appeals challenging the Assessment Order and Demand Notice, as well as the condonation of delay applications are still pending consideration, and as the Income Tax authorities were proceeding with coercive recovery actions, this Court has been approached for seeking stay on the recovery proceedings, and for orders to restrain the transfer of funds from the petitioner's Bank Accounts, until the disposal of the statutory appeals.

7. Mr. S. Chetia, learned counsel for the respondents Nos. 2, 3 & 4 (Income Tax Department) however, has challenged the maintainability of the writ petitions and has submitted that the relief sought for by the petitioner in the present proceedings under Article



226 of the Constitution of India, is the same prayed before the Appellate authority, which is pending adjudication. He further submits that by filing these instant writ petitions, the petitioner has initiated two parallel proceedings for the same cause of action, and is seeking the same relief before two judicial forums i.e. before the Commissioner of Taxes (Appeals) under Section 246A and before this Court, which is impermissible in law. The learned counsel has placed reliance on the following judgments in support of this contention: -

- i) AIR 1970 SC 1 Shankar Ramchandra Abhyankar vs. Krishnaji Dattatraya Bapat (Para-8)*
- ii) AIR 1977 SC 898 Jai Singh vs. Union of India*

8. It has also been argued by the learned counsel for the respondents that as there is alternative remedy, the writ petitions should not be entertained and has relied upon the judgment dated 12.11.2024 passed by the Gauhati High Court in WP(C) No. 209 of 2022, wherein the Court did not entertain the writ petition more particularly as the appeal was filed prior to the writ petition, which he submits is similar to the present case. He has further contended that mere filing of an appeal does not constitute stay of demand, and has resisted the prayer of the petitioner to de-freeze the Accounts by



submitting that, whatever amounts present in the Bank Accounts need to be secured by the respondent authorities and that the said amount frozen does not amount to even 20% of the demand. He then concludes his submissions by asserting that there is no merit in these writ petitions and the same are liable to be dismissed.

9. Mr. M.L. Gope, learned counsel in reply, has submitted that this Court had been approached only on a limited prayer as the appeals against the Assessment Order were pending and no fixed dates given for hearing the matter. This was necessitated, she submits due to the fact that all the petitioner's Accounts had been frozen, which has affected his business adversely, as he is unable to pay wages or to meet other business expenses. This Court she submits, had issued orders on these matters being moved, directing the respondents to not take any coercive actions, but however the Accounts have not been de-frozen. The learned counsel has renewed her prayer for de-freezing the Accounts by submitting that the non-defreezing, amounts to coercive action in spite of the orders of this Court.

10. On hearing the learned counsel for the parties and on examination of the materials placed before us, the fact that these



instant writ petitions are limited only to prayers for stay of the recovery proceedings, and not for issuance of a writ of certiorari against the Assessment Orders are very clear. The short point for determination is therefore in spite of availing of statutory appeal, which is pending consideration, whether the petitioner will be entitled to the prayers made herein.

11. It is settled law that one cannot pursue two remedies in respect of the same matter, and as such, these two writ petitions were liable to be not entertained at the threshold itself. However, on consideration of the fact that specific prayers and submissions had been made, that the appeals that had been filed were yet to be taken up as the delay was yet to be condoned, and that the petitioner admittedly belonged to the Khasi Scheduled Tribe and as such, was exempted under Section 10(26) of the Income Tax Act, 1961, the interim orders had been passed that the respondents take no coercive action.

12. These matters being situated thus, and as the appeals are pending before the Appellate authority, without further discussion, these writ petitions are disposed of with the directions that the appeals be taken up by the Commissioner of Taxes



(Appeals) for consideration most expeditiously and orders passed thereon, or be finally disposed of within a period of 4(four) weeks from today. It is further provided that till such time the interim orders of this Court shall be in operation, and if no orders are forthcoming in the appeals within the period allowed, the respondents shall issue appropriate instructions to de-freeze the Bank Accounts of the petitioner.

13. As ordered above, these writ petitions stand closed and are accordingly disposed of.

**(B. Bhattacharjee)**  
**Judge**

**(H.S. Thangkhiew)**  
**Judge**

Meghalaya  
17.06.2025  
"V. Lyndem PS"