

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO.2 OF 2010

IN

CIVIL APPEAL NO. 2672 OF 2009

STANDARD CHARTERD BANK

...APPELLANT

VERSUS

ASST.COMMR.OF INCOME TAX,BOMBAY & ORS.

...RESPONDENTS

O R D E R

Heard Mr. K.K. Venugopal, senior counsel appearing for the appellant, Mr. Parag P. Tripathi, Additional Solicitor General representing the Revenue Department and Ms. Kamini Jaiswal, counsel appearing for the respondents 4 to 6, the notified parties.

In the order of the Special Court passed on April 3, 2009, against which this appeal is filed, in paragraph 3, it is stated as follows :-

"I also find that in the attached account, presently an amount of Rs.500/- crores is lying. It could not be given either to the Banks or Income Tax Department by this Court because of the orders passed by the Supreme Court. As the Income Tax

1

Department proposes to move the Supreme Court, in my opinion, it will be appropriate to direct the Custodian also to move the Supreme Court seeking appropriate orders in relation to the amount of Rs.500/- crores which is available for distribution. The Custodian shall seek appropriate orders from the Supreme Court whether this amount of Rs.500/- crores can be distributed prorate amongst the decree holder Banks. The learned Additional Solicitor General has stated that he will move the Supreme Court in any case before 24th April 2009 for securing appropriate orders. Put up on 24th April 2009."

[Emphasis added]

[At the time of passing of the order, the amount in

the attached account was Rs.500 crores; we are informed that the value of the assets lying now in the account is approximately Rs.3000 crores out of which the cash element is approximately Rs.1865 crores.]

In regard to the order of the Special Court, it needs to be clarified that in case an application for disbursement of funds is made by the Revenue or by the Creditor Banks, it will be open to the Special Court to pass appropriate orders, in accordance with law, after hearing objections, if any, raised against the request for disbursement.

At this stage, it would also be appropriate to recall that while dealing with the question of disbursement from the attached account, this Court in Deputy Commissioner

of Income Tax versus ² State Bank of India and Others (2009) 2 SCC 451, made the following observations in paragraph 46 of the decision :-

"46. It is needless to say that the orders of disbursement made during the pendency of the disputes between the parties cannot be said to be final and the same will have to be interim in nature and would finally get settled and take shape on the determination of the final liability after final adjudication of the disputes by the appropriate forums."

Hence, in case after hearing all concerned the Special Court decides to issue direction for disbursement of money from the attached account, it shall ask the party in whose favour disbursement of the funds are directed to be made to give appropriate undertaking(s).

Needless to say, it would be open to any party aggrieved by the order of the Special Court to seek its remedies as may be available in law.

I.A. No.2 - application for directions is disposed of accordingly.

.....J.
(Aftab Alam)

(Neetu Khajuria)
Sr.P.A.

(S.S.R. Krishna)
Court Master

(Signed order is placed on the file.)