(2000) 12 CAL CK 0043

In the Calcutta High Court

Case No : Writ Petition No. 6821 of 1999 12 December 2000

SAHANA MUKHERJEE APPELLANT

Vs

UNION BANK OF INDIA and Others RESPONDENT

Date of Decision : 12-12-2000

Acts Referred:
Income Tax Act, 1961 — Section 226(3)

Citation : (2001) 166 CTR 532 : (2001) 118 TAXMAN 118

Hon'ble Judges : K.J. Sengupta, J;K.J. Sangupta, J

Bench : Division Bench

Advocate : Animesh Kanti Ghosal and Mrs. Chandramala Mukherjee, for the Assessee and Md. Nizamuddin, for the Revenue and Ranjit Chowdhury, for the Bank, for the Appellant;

Judgement

K.J. Sengupta, J.

In view of the order passed by me in the previous writ petition being No. W.P. 6819(W)/99 (Prabir Kumar Mukherjee v. Union Bank of India & Ors. (2001) 21 DTC 591 (Cal-HC)). I am of the view that recovery of the amount in this matter u/s 226(3) has become unwarranted under the law. Admittedly there is no due against the writ petitioner. On account of the alleged dues of her father the amount in question in this writ petition has been withdrawn from the joint account. I, hold that the steps taken by the respondents in this matter is not justified under the law. Accordingly, I direct the respondent-authority to refund a sum of Rs. 9,623 together with interest at the rate of 12 per cent per annum which shall be calculated from the date of withdrawal. However, the aforesaid amount after receipt shall be kept in a short-term fixed deposit not less than the period of six months. The aforesaid fixed deposit shall not be encashed before three months from date. In the event the decision of the Tribunal goes in favour the department it would be entitled to take steps in accordance with law within a period of the aforesaid three months. In the event no decision is forthcoming within three months then the writ petitioner would be entitled to encash the aforesaid amount.

The writ petition is thus disposed of without any order as to costs.