

Civil court has no jurisdiction to entertain suit against I-T department without any allegation of fraud

Summary – The High Court of Punjab & Haryana in a recent case of Nachhattar Singh., (the Assessee) held that where Income-tax department appropriated amount deposited by assessee with a firm towards income-tax dues of firm, in absence of any allegation of fraud against Income-tax department, civil court had no jurisdictions to entertain recovery suit filed by assessee against Income-tax department

Facts

- The respondent had deposited certain amount with a firm.
- Said firm was assessed to income-tax and as it did not pay its dues, its accounts were attached and money in those accounts was appropriated by the Income-tax department towards arrears of income-tax.
- The respondent filed a civil suit alleging that his money deposited with the firm had been illegally appropriated by the Income-tax department and, therefore, should be returned. He also pleaded that he had been fraudulently induced by the said firm to deposit those amounts.
- The department opposed the suit on the ground of lack of jurisdiction of the civil court.
- The trial court as well as the first appellate court held that jurisdiction of the civil court was not barred as money was received by the defaulter firm by playing a fraud.
- On revenue's appeal before the High Court:

Held

- A perusal of section 293 reveals that no suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under the Income-tax Act thereby leaving no ambiguity that a civil court is prohibited from entertaining a suit to set aside or modify any order or proceedings initiated under the Income-tax Act. An exception would obviously be available where the order passed or proceedings initiated are vitiated by fraud and then also if the fraudulent act is attributed to an officer exercising power under the Income-tax Act. The plaintiff/respondent does not allege any fraud by or at the behest of the Income-tax department. The Courts below have held that the fraud was perpetuated by firm but have not returned a finding of fraud against the department.
- The plaintiff/respondent was competent to file a suit for recovery against firm but in absence of any allegation of fraud against the department, could not maintain a suit against the Income-tax department. The jurisdiction of civil courts, to entertain the suit, against the Income-tax department, was barred by section 293.
- Consequently, the suit filed by plaintiff/respondent was not maintainable against the Income-tax department.