IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.10048 and 10049 of 2015
and
M.P.Nos.1, 1 of 2015

M/s.Winner Dairy (P) Ltd.,
Rep by its Director,
Mr.K.Venkatraman ... Petitioner in both W.Ps.

Vs.

The Deputy Commissioner of Income Tax,
Pondicherry Circle,
Pondicherry. ... Respondent in both W.Ps.

Prayer in W.P.No.10048/2015: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Prohibition prohibiting then respondent from taking any coercive steps in pursuant to the Demand Notice dated 31.03.2015 to recover the disputed tax levied by the respondent, vide his Assessment Order dated 31.03.2015.

Prayer in W.P.No.10049/2015: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondent in the Impugned Notice dated 31.03.2015 issued by the respondent under Section 274 of Income Tax Act, 1961 and quash the same as illegal.

For Petitioner : Mr.T.V.Ramanujan, Senior Counsel
for M/s.S.Elambharathi

For Respondent : Mr.Pramod Kumar Chopda
Standing Counsel for Income Tax

O R D E R

By consent, these writ petitions are taken up for final disposal.

2. It is the case of the petitioner that on 31.03.2015, an assessment order came to be passed by the respondent assessing total income of Rs.5,03,40,700/- and after adding tax, surcharge, education cess etc., the total tax payable was assessed at Rs.2,14,93,869/- and deducted the tax already paid and the balance amount payable was Rs.1,82,20,010/- and it should be paid as per the Notice of Demand made under Section 156 of the Income Tax Act, 1961, failing which penalty proceeding will be initiated under Section 221 of the Income Tax Act, 1961. In terms of the notice under Section 156, the petitioner was directed to pay a sum of Rs.1,82,20,010/- within fifteen days from the date of service of notice to the credit of Manager, authorized bank/State Bank of India at Puducherry. The grievance expressed by the petitioner is that the said order came to be served on him only on 04.04.2015 and he has got 30 days to prefer an appeal, which expires on 04.05.2015 and without allowing the petitioner to exhaust the appeal remedy and getting interim orders, coercive steps are taken and therefore, came forward to file W.P.No.10048/2015

3. In pursuant to the impugned notice of demand referred to in W.P.No.10048/2015, notice under Section 272 read with Section 271 of the Income Tax Act, 1961 was issued by the respondent stating that the petitioner have concealed particulars of income or furnished incorrect particulars and therefore, called upon the petitioner to appear before him on 30.04.2015 at 11.30 a.m. Challenging the said notice, the petitioner has filed W.P.No.10049/2015.

4. Mr.T.V.Ramanujan, learned Senior Counsel appearing for the petitioner would submit that admittedly the petitioner is having time to prefer appeal within 04.05.2015 and therefore, fixing a short time of 15 days to pay the demand amount is per se unsustainable and would further submit that till the filing of the appeal, further proceedings may be deferred.

5. Mr.Pramod Kumar Chopda, learned Standing Counsel appearing for the respondent, on instructions, would submit that no proceeding would take place till 04.05.2015 and it is open to the petitioner to file an appeal and move the Assessment Officer for getting interim orders. The said submission is placed on record.

6. Though the petitioner has prayed for the larger relief of quashing the impugned notices, this Court is of the view that it would be suffice to direct the respondent to keep in abeyance further proceeding in terms of the impugned notice till 04.05.2015.

7. Hence these writ petitions are disposed of with a direction to the respondent to keep in abeyance further proceeding in terms of the impugned notice till 04.05.2015 and the petitioner is at liberty to file statutory appeal and move for appropriate orders.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jvm

To

The Deputy Commissioner of Income Tax,
Pondicherry Circle,
Pondicherry.

+1cc to M/s.S.Elambharathi, Advocate,
S.R.No.19516 - for W.P.No.10048/15
S.R.No.19515 - for W.P.No.10049/15
+1cc to Mr.T.Pramod Kumar Chopda, Advocate, S.R.No.19460

W.P.Nos.10048 and 10049 of 2015
and
M.P.Nos.1, 1 of 2015

RSV(CO)
CA(15/04/2015)