IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.15553 of 2015
and
M.P.No.1 of 2015

Kummathi Rameswara Reddy ... Petitioner

Vs

1. The Assessing Officer
   Dy. Commr. of Income Tax,
   Non Corporate Circle 17(1),
   Room No.508 Wanaparthy Block
   Aayakar Bhavan
   121 Uthamar Gandhi Salai
   Nungambakkam Chennai 34

2. The Commissioner of Income Tax (Appeals)
   The Income Tax Department
   Aayakar Bhavan 121 M.G. Road
   Nungambakkam Chennai 34 ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records on the file of the 1st respondent in proceedings No. Nil dt 28.3.2015 and quash the same as illegal incompetent irregular and without jurisdiction.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.T.Pramod Kumar Chopda,
Senior Standing Counsel

O R D E R

Heard the learned counsel for the petitioner and Mr.T.Pramod Kumar Chopda, learned Senior Standing Counsel, who took notice for the respondents and with their consent, the main writ petition is taken up for disposal.

2. The petitioner has come forward with this writ petition challenging the impugned notice of the 1st respondent dated 28.03.2015, in and by which, the petitioner was directed to pay a sum of Rs.23,57,740/-, within 30 days of service of notice, failing which, apart from stating that the petitioner is liable to pay interest, the petitioner was intimated that penalty proceedings would be initiated.

3. The petitioner, being an employee of M/s Cognizant Technology Solutions Private Limited, has been regularly filing tax returns. For the assessment year 2012-13, a demand notice was issued by the assessing authority, the 1st respondent herein, directing the petitioner to pay a sum of Rs.23,57,740/-. Aggrieved over the same, the petitioner has filed an application u/s 220(6) for stay before the assessing authority, who declined to pass orders. The petitioner has also filed an appeal under Section 246 A of the Income Tax Act before the appellate authority against the said order.

4. It is the contention of the learned counsel for the petitioner that the 1st respondent is duty bound to pass orders on the application for stay filed under Section 220(6) of the Income Tax Act, within a reasonable time. As far as the case of the petitioner is concerned, the petitioner has filed the said application on 16.04.2015, which has not been disposed of till date. It is his further contention that despite the said request made for stay of the impugned order, the assessing officer is keen in exercising action under Section 271-D of the Act. Hence, the learned counsel for the petitioner sought to quash the proceedings dated 28.03.2015.

5. Admittedly, there is a stay application pending before the Assessing Authority and also an appeal is pending before the appellate authority. Since there is a threat of recovery, the petitioner seeks indulgence of this Court. Hence, the 1st respondent, before whom the stay application pending is directed to take up the stay application and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order. It is made clear that pending disposal of the same, no recovery shall be made. Further, the 2nd respondent, the appellate authority is directed to take up the appeal and after affording due opportunity to the petitioner, decide the same on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

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   The Income Tax Department
   Aayakar Bhavan 121 M.G. Road
   Nungambakkam Chennai 34

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.42115
+1cc to Mr.T.Pramodkumar Chopda, Advocate, S.R.No.42105

W.P.No.15553 of 2015

KGK(CO)
CA(27/08/2015)