IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.Nos.22518 to 22520 of 2015
and
M.P.Nos.1 & 2 of 2015 (3 Nos. each)

M/s.ETA General Private Ltd., rep. by its Additional General Manager B.T.Prabhahar .. Petitioner in W.P.Nos.22518 and 22519 of 2015

M/s.ETA Star Appliances Private Limited rep. by its Deputy General Manager B.Vasudevan .. Petitioner in W.P.No.22520 of 2015

Vs.

1.The Commissioner of Income Tax (Appeals-6), No.121, M.G. Road, Nungambakkam, Chennai - 34.

2.The Commissioner of Income Tax (Appeals - II), No.121, M.G. Road, Nungambakkam, Chennai - 34.

3.The Commissioner of Income Tax (Appeals - III), No.121, M.G. Road, Nungambakkam, Chennai - 34.

4.The Deputy Commissioner of Income Tax, Corporate Circle 2(1), Chennai, No.121, M.G. Road, Nungambakkam, Chennai - 34.

5.The Assistant Commissioner of Income Tax, Corporate Circle 2(1), Chennai, No.121, M.G. Road, Nungambakkam, Chennai - 34. .. Respondent in W.P.No.22518 & 22519 of 2015

1.The Commissioner of Income Tax
(Appeals-6),
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

2.The Commissioner of Income Tax
(Appeals - II),
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

3.The Deputy Commissioner of Income
Tax, Corporate Circle 2(1), Chennai,
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

4.The Assistant Commissioner of
Income Tax, Corporate Circle 2(1), Chennai,
No.121, M.G. Road, Nungambakkam,
Chennai - 34. .. Respondents in
W.P.No.22520 of 2015

Prayer in W.P.No.22518 of 2015: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records comprised in AAACE6650P/2015-16 dated 11.06.2015 on the file of the fifth respondent, quash the same and consequently direct the fifth respondent not to take any coercive measures till the disposal of appeals filed by the petitioner for the assessment years 2008-09, 2009-10, 2011-12 by the respondents 1 and 3.

Prayer in W.P.No.22519 of 2015: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records comprised in AAACE6650P/2010-11 dated 03.07.2014 on the file of the fourth respondent, quash the same and consequently direct the fourth respondent not to take any coercive measures till the disposal of appeal filed by the petitioner for the assessment year 2010-11 by the second respondent.

Prayer in W.P.No.22520 of 2015: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records comprised in AABCE8102F/2015-16 dated 11.06.2015 on the file of the fourth respondent, quash the same and consequently direct the fourth respondent not to take any coercive measures till the disposal of appeals filed by the petitioner for the assessment years 2009-10, 2011-12 and 2012-13 by the respondents 1 and 2.

For Petitioner .. Mr.N.Venkataraman, Sr. Counsel
for Mr.K.Magesh
in all the W.Ps

For Respondents .. Mr.T.Pramod Kumar Chopda, Sr. Standing Counsel all the W.Ps

COMMON ORDER

These three writ petitions are filed, challenging the impugned orders passed by the Assistant Commissioner of Income Tax, Corporate Circle 2(1), Chennai, Deputy Commissioner of Income Tax, Corporate Circle 2(1) and the Assistant Commissioner of Income Tax, Corporate Circle 2(1), Chennai respectively, in and by which, (i) interim stay was granted on condition to pay 50% of the outstanding demand of Rs.4.86 crores in ten instalments at the rate of Rs.24 lakhs each ; (ii)the assessee was directed to pay a sum of Rs.2,34,00,000/- in nine equal monthly instalments at the rate of Rs.26 lakhs per each instalment; and (iii) interim stay was granted on condition to pay 50% of the outstanding demand in three instalments at the rate of Rs.10 lakhs each respectively.

2.Learned senior counsel for the petitioners would submit that the assessing officer has passed three assessment orders dated 26.03.2013 (for the year 2009-10), dated 20.03.2015 (for the year 2008-09) and dated 23.03.2015 (for the year 2011-12) respectively stating that the expenditure claimed by the petitioners is only provisional in nature and not actual and wrongly disallowed the accounts. As against the same, the petitioner preferred appeals along with stay applications before the authority concerned.

3.In this background, the grievance of the petitioners is that without considering the case of the petitioners, they were directed to make payment as stated above. The further grievance of the petitioners is that till date, the appeals filed by the petitioners have not been taken up for final disposal. Since the pendency of the appeals is causing hardship to the petitioners for more than 2 1/2 years, a prayer has been made to direct the appellate authority to dispose of the pending appeals on merits and in accordance with law expeditiously.

4.Mr.T.Pramodkumar Chopda, learned senior standing counsel appearing for the respondents, refuting the above statement, submitted that it is not open to the learned senior counsel for the petitioner to say that the appeals are pending for about 2 1/2 years. It is not known whether the petitioners are responsible for the delay or the respondent Department. Adding further, he would submit that as already six instalments have been paid, the petitioners may be directed to pay the monthly instalments with a further direction to the appellate authority/fourth respondent to dispose of the pending appeals within a period of three months.

5.Recording the above statement, this Court, without going into the merits of the matter, considering the limited prayer made by the petitioners to dispose of the pending appeals and considering the pendency of the matter for quite a long time, hereby directs the respondents 1 to 3 to take up the appeals and dispose of the same, within a period of four months from the date of receipt of a copy of this order. Till then, no coercive steps shall be taken against the petitioner. The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mmi

To

1.The Commissioner of Income Tax (Appeals-6),
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

2.The Commissioner of Income Tax (Appeals - II),
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

3.The Commissioner of Income Tax (Appeals - III),
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

4.The Deputy Commissioner of Income Tax, Corporate Circle 2(1), Chennai,
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

5.The Assistant Commissioner of Income Tax, Corporate Circle 2(1), Chennai,
No.121, M.G. Road, Nungambakkam,
Chennai - 34.

3 cc to Mr.K.Magesh , Advocate Sr.No.38083 to 38085
2 cc to Mr.T.Pramod Kumar Chopda, Sr. Standing Counsel for Income Tax, No.124/111, Myniappa Naicken Street, Chennai -3 Sr.No.38240 and 38241

W.P.Nos.22518 to 22520 of 2015

bvr(co)
pmk.25.8.2015