

In the High Court of Judicature at Madras

Dated :: 10.08.2015

Coram ::

The Hon'ble Mr. Justice R.MAHADEVAN

Writ Petition Nos: 24532 & 24533 of 2015

R.J.V.Kaiwar

... Petitioner
in both the W.Ps.

Vs

- 1 The Chief Commissioner of Income Tax
Chennai - 4,
Income Tax Department,
121 Mahatma Gandhi Road,
Chennai - 600 034.
- 2 The Principal Commissioner of Income Tax
Chennai - 6,
Income Tax Department,
121 Mahatma Gandhi Road,
Chennai - 600 034
- 3 The Commissioner of Income Tax (Appeals) - 15
Income Tax Department,
121 Mahatma Gandhi Road, Chennai - 600 034
- 4 The Joint Commissioner of Income Tax
Non Corporate Range - 15
Income Tax Department,
121 Mahatma Gandhi Road,
Chennai - 600 034.
- 5 The Income Tax Officer
Non Corporate Ward - 15,
Income Tax Department,
121 Mahatma Gandhi Road
Chennai - 600 034.

... Respondents in both the W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified mandamus seeking for a direction to call for the records of the 5th Respondent to quash the impugned orders in PAN. ALDPK9112H dated 28.07.2015 u/s 226(3) of the Income Tax Act, 1961 and consequently direct the First, Second, Fourth and Fifth Respondents not to proceed further in the matter of recovery of the disputed arrears consequently direct the refund of the money recovered from the bank account forthwith pending disposal of the First Appeal before the Third Respondent.

For petitioner in
both W.Ps. :: Mr.S. Sridhar

For respondents in
both W.Ps. :: Mr.Rajasekar, Standing Counsel

COMMON ORDER

Heard Mr.S.Sridhar, learned counsel for the petitioner and Mr.Rajasekar, learned Standing counsel, who took notice for the respondents and with their consent, the main writ petition is taken up for disposal.

2. These writ petitions have been filed by the petitioner challenging the impugned notices in PAN. ALDPK9112H ,dated 28.07.2015, passed by the fifth respondent herein.

3. The grievance of the petitioner is that as against the order of assessment under section 143(3) of the I.T.Act he preferred an appeal for the year 2011-12, under Section 146 of the TNVAT Act, which is pending before the third respondent. The petitioner also moved a stay petition before the fifth respondent who directed to pay 50% of the demand and the same was challenged before the fourth respondent who reduced the same to 25% payable in eight installments by order dated 1.09.2014. The said order was placed before the second respondent and though a considerable time had been sought for by the petitioner in the stay application, without assigning proper reason, the second respondent rejected the request of the petitioner by order dated 24.07.2015 and an attachment notices dated 28.07.2015 had been issued to their bankers. Challenging the said notices, petitioner is before this court.

4. I have heard the learned standing counsel for the respondents on the above aspects.

5. Considering the submissions made by the learned counsel for the petitioner, without going into the merits of the claim agitated by both the parties, this Court is inclined to direct the Appellate Authority, who is the third respondent herein, to dispose of the appeal for the year 2011-12, after affording due opportunity to the petitioner, on merits and in accordance with law, within a period of six weeks, from the date of receipt of a copy of this order. However, it is made clear that this Court is not expressing any opinion on the directions as well as the concessions granted by the fourth respondent and the order passed by the second respondent referred above.

With the above observations, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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To,

- 1 The Chief Commissioner of Income Tax, Chennai - 4
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Chennai - 600 034.

1 cc to Mr. S. Sridhar, Advocate Sr.No.41459

1 cc to Mr. T.Pramod Kumar Chopda, Advocate Sr.No.41387

W.P. Nos. 24532 & 24533 of 2015

ts(co)
pmk.27.8.2015

सत्यमेव जयते

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