

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2015

CORAM

The Hon'ble Mr.Justice R.Mahadevan

Writ Petition No.31021 of 2013
and

M.P.No.1 of 2013

M/s.Binny Limited.

A Public Limited Company

Incorporated under the provisions of the

Indian Companies Act, 1956,

rep. by its Executive Chairman Mr.M.Nandagopal,

having registered office at

No.1, Cooks Road, Ottery, Perambur,

Chennai - 600 012.

... Petitioner

Vs.

1. The Commissioner of Income Tax,
Central - II,
46, Mahatma Gandhi Road,
Chennai - 600 034.

2. The Assistant Commissioner of Income Tax,
Central Circle II (1)
46, Mahatma Gandhi Road,
Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals)
Central - II,
46, Mahatma Gandhi Road,
Chennai - 600 034.

... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records of the first respondent in Order C.No.2802/C-II/2013-14/2, relating to the application made by the petitioner for stay of the demand under Section 220 (6) of the Income Tax Act, 1961, and to quash the order, dated 06.11.2013, rejecting the stay petition and to direct the first respondent to grant stay of the demand relating to the assessment order for the assessment year 2010-11, pending disposal of the Appeal before the third respondent.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.T.Pramod Kumar Chopda
Standing Counsel for Income Tax Cases.

O R D E R

This matter is kept pending from 2013 onwards. The challenge in this Writ Petition is only to the interim direction issued by the jurisdictional Commissioner on the stay petition, whereby, the petitioner was directed to pay 50% of the demand. Against the said order, the petitioner has filed this Writ Petition.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent and perused the materials available on record.

3. One way or the other, the Writ Petition is pending from the year 2013 onwards. If the Appeal itself is taken up for hearing by the third respondent, and the matter is decided, that would serve the purpose. Accordingly, the Writ Petition is disposed of, with a direction issued to the third respondent/Appellate Authority to take up the Appeal and complete the appeal proceedings, after affording due opportunity to the petitioner. Any of the representation made to the effect of keeping the Appeal proceedings in abeyance shall be summarily rejected and the Appellate Authority may proceed to decide the Appeal on merits and shall pass final orders strictly within a period of six weeks from the date of receipt of the copy of the order. Till the Appeal is disposed of by the third respondent/Appellate Authority, the position prevailing on date, as per the order, dated 10.12.2013, passed by this Court, shall remain continue, and there shall not be any fresh recovery proceedings against the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sd
To

1. The Commissioner of Income Tax,
Central - II,
46, Mahatma Gandhi Road,
Chennai - 600 034.

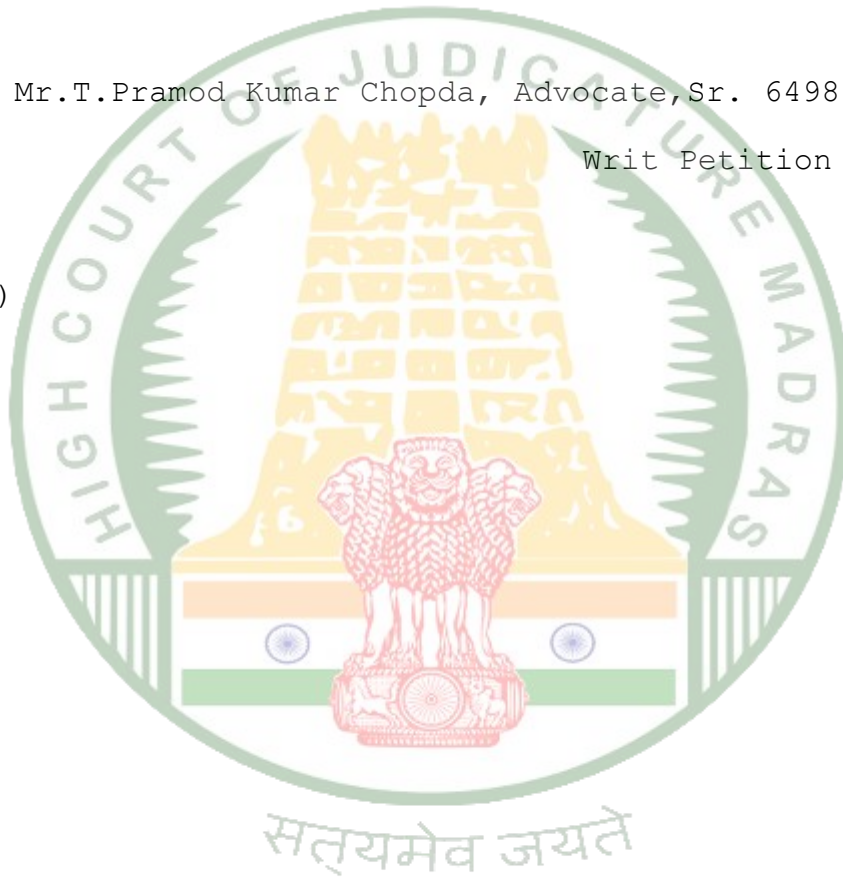
2. The Assistant Commissioner of Income Tax,
Central Circle II (1)
46, Mahatma Gandhi Road,
Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals)
Central - II,
46, Mahatma Gandhi Road,
Chennai - 600 034.

1 cc to Mr.T.Pramod Kumar Chopda, Advocate, Sr. 64988

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SCD (CO)
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