IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015
CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.33249 of 2015
and
M.P.No.1 of 2015

S.Krishnakumar ..Petitioner

Vs

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

2.The Income Tax Officer,
Office of the Non Corporate Ward - 5(1),
II Floor, Kannamani Building,
611, Mount Road, Chennai - 6. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the letter in No.NCW-5(1)/AJZPK9173C/Stay/2015-16 dated 14.09.2015 passed by the second respondent and quash the same as arbitrary and direct the first respondent to dispose the appeal filed by the petitioner.

For Petitioner : Mr.K.Girish Neelakantan

For Respondents : Mr.T.Pramodkumar Chopda, Sr. Standing Counsel



ORDER

Challenging the order of the second respondent dated 14.09.2015 and for a direction to the first respondent to dispose of the appeal, the petitioner has filed the present writ petition.

2.The petitioner is the manufacturer of small plastic containers and the petitioner is periodically filing returns with central excise authorities and the sales tax authorities. The petitioner is supplying the materials only to public sector undertaking and all the transactions are entered in the books of accounts. The petitioner filed income tax return for the assessment year 2012-2013 on 24.11.2012 and the second respondent issued a letter dated 21.10.2014 calling for information in respect of the closing balance of the petitioner. Thereafter, on 20.03.2015, the second respondent had completed the assessment and assessed the total income at Rs.19,41,562/-. Aggrieved by the same, the petitioner preferred a statutory appeal before the first respondent on 05.05.2015. The petitioner also filed a letter dated 04.09.2015 to the second respondent requesting for stay of collection of demand and by order dated 14.09.2015, the second respondent rejected the request and directed the petitioner to pay 50% of the demand. The petitioner filed a letter on 21.09.2015 before the CIT Appeal (V), Chennai to take up the appeal. In spite of the representations made by the petitioner to dispose of the stay petition, the same is still pending. Hence the present writ petition.

3.Heard the learned counsel for the petitioner and the learned senior standing counsel for the respondents.

4.The only grievance of the petitioner is that the appeal filed by the petitioner has not been taken into consideration for passing appropriate orders and the same is pending.

5.Learned senior standing counsel appearing for the respondents would submit that the appeal filed by the petitioner along with stay petition is pending before the Commissioner (Appeals) and a direction may be given to dispose of the same.

6.Considering the facts and circumstances of the case, the Commissioner (Appeals) is directed to consider the appeal of the petitioner along with stay petition and pass appropriate orders 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 accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

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

2.The Income Tax Officer,
Office of the Non Corporate Ward - 5(1),
II Floor, Kannamani Building,
611, Mount Road, Chennai - 6.

+1 cc to Mr.K.Girish Neelakantan,Advocate(sr.56742)
+1 cc to Mr.T.Pramodkumar chopda,Advocate(sr.56752)

W.P.No.33249 of 2015

ctk(co)
cp 29/10/2015