IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.Nos.33681 and 33682 of 2015

Bose Chandra Ebenezer .. Petitioner in W.P.No.33681 of 2015

Amala Bose .. Petitioner in W.P.No.33682 of 2015

Vs

1.The Commissioner of Income Tax (Appeals) -2,
Coimbatore.

2.The Income Tax Officer,
Non Corporate Ward 2(5),
Coimbatore. .. Respondents in both the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India for the issuance of a Writ of mandamus directing the first respondent to forthwith dispose of the appeals filed by the petitioners on 25.5.2015 against the assessment orders dated 30.3.2015 in PAN AAAPE5981C and ADIPB1444Q respectively for assessment years 2008-09 to 2013-14 on the file of the first respondent within a specified time.

For Petitioner :Mr.P.Saravana Sowmiyan, in both the W.Ps

For Respondents :Mr.T.Pramodkumar Chopda, Senior Panel Counsel in both the W.Ps

COMMON ORDER

Seeking a direction to the first respondent to dispose of the appeals filed by the petitioner dated 25.05.2015, these writ petitions have been filed.

2.The petitioners are the senior citizens and the petitioner in W.P.No.33681 of 2015 is a Chartered Accountant. The petitioner in W.P.No.33682 of 2015 is the wife of the petitioner in W.P.No.33681 of 2015. Inso far as W.P.No.33681 of 2015 is concerned, the petitioner had not filed returns and therefore, the second respondent issued notices under Section 148 of the Income Tax Act, calling upon him to file returns for the assessment years 2009-2010 to 2011-2012 on 27.03.2014 and for the assessment years 2008-2009, 2012-2013 and 2013-2014 on 10.06.2014. Immediately after receipt of the notices, he filed the returns. However, the second respondent determined the total taxable income at Rs.1,40,46,720/- for the assessment years 2008-09 to 2013-14. Subsequently, by communication dated 20.05.2015, the second respondent informed the petitioner that failure to pay the demand would result in attachment of the property. Therefore, the petitioner filed a stay petition before the second respondent stating that he has preferred an appeal before the first respondent along with stay petition. The second respondent, by order dated 27.05.2015, refused to grant stay on the ground that he has no power. The second respondent also frozen the bank account of the petitioner and withdrawn the amounts lying in the accounts. Therefore, the second respondent filed W.P.No.20278 of 2015 for a direction to lift the attachment of bank accounts. This Court, by order dated 08.07.2015, granted stay on condition that the petitioner should pay a sum of Rs.1 lakh for each assessment year. Accordingly, the petitioner paid two instalments of Rs.6 lakhs each.

3.Sofar as W.P.No.33682 of 2015 is concerned, the petitioner had filed income tax returns for the years 2008-09 to 2013-14 pursuant to the notices issued by the second respondent. The petitioner produced documentary evidence and the second respondent raised a high pitched demand vide assessment orders for the years 2008-09 to 2013-14. Against the same, the petitioner filed appeals before the first respondent on 25.05.2015 and the same are pending. The petitioner also filed an application under Section 220(6) of the Income Tax Act, before the second respondent stating that she had preferred an appeal. The second respondent refused to grant stay and pending appeals, the second respondent initiated garnishee proceedings and issued notice under Section 226(3) of the Income Tax Act. Therefore, the petitioner filed W.P.No.20277 of 2015 and this Court, by order dated 08.07.2015, granted stay and directed the second respondent to adjust the excess amount towards the instalment payable by her husband. Pursuant to the same, the husband of the petitioner paid two instalments at Rs.6 lakhs each.

4.Inspite of the requests made by the petitioners to dispose of the appeals, the same were not disposed of. Therefore, the petitioners gave representations dated 29.09.2015 to the first respondent. Since no action has been taken on the said representations, the petitioners are before this Court.

5.Heard the learned counsel appearing for the petitioners and the learned senior standing counsel for the respondents.

6.The only grievance of the petitioners is that the appeals filed by them before the Commissioner (Appeals) for the years 2008-09 to 2013-14 are stated to be pending. As directed by this Court, on an earlier occasion, the petitioner complied with the directions and the petitioners seek early disposal of the appeals.

7.Considering the facts and circumstances of the case, the first respondent is directed to dispose of the appeals dated 25.05.2015 on merits and in accordance with law, after affording an opportunity of hearing to the petitioners, within a period of eight weeks from the date of receipt of a copy of this order. The writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Commissioner of Income Tax
(Appeals) -2, Coimbatore.

2.The Income Tax Officer,
Non Corporate Ward 2(5),
Coimbatore.

+1 cc to Mr.T.Pramodkumar chopda,Advocate(sr.87403)
+2 cc to Mr.P.Saravana sowmiyan,Advocate(sr.57495,57496)

W.P.Nos.33681 and
33682 of 2015

svi(co)
cp 29/10/2015