IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.11.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.36287 of 2015
& M.P.No.1 of 2015

V.Deivasigamani [Petitioner]

Vs

1. The Commissioner of Income Tax (Appeals) XII
   Chennai - 34.

2. Income Tax Officer,
   Ward-1 (1), Income Tax Office,
   Puducherry.

3. Tax Recovery Officer,
   Income Tax Officer, Puducherry. [Respondents]

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of mandamus forbearing the third respondent from the recovery proceedings pending disposal of the appeal dated 15.04.2013 before the first respondent.

For petitioner : Mr.R.Udhayakumar

For respondents : Mr.T.Pramod Kumar Chopda, Sr.SC

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel, who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

2. The writ petition has been filed under Article 226 of the Constitution of India to forbear the third respondent from proceeding with the recovery proceedings, till the disposal of the Appeal.

3. According to the learned counsel for the petitioner, for the assessment year 2010-11 the petitioner had filed the returns and the second respondent assessed the same under Section 143 (3) of the Income Tax Act by order dated 25.02.2013 and made additions under Section 69 of Income Tax Act to an extent of Rs.24,32,338/-. It is also the case of the petitioner that a sum of Rs.1,48,000/- has already been paid. Aggrieved over the order of assessment, the petitioner also preferred an appeal before the Commissioner of Income Tax (Appeals) along with stay petition. It is also the submission of the learned counsel for the petitioner that pending appeal, recovery proceedings have been initiated. Hence, the petitioner is before this Court.

4. Admittedly, for the assessment year 2010-11 out of the disputed tax amount the petitioner had remitted a sum of Rs.1,48,000/- and claims that he has also paid 25% of the disputed tax at the time of filing the appeal. However, since the disputed tax amount due is more than Rs.10 lakhs, this Court is of the view that it would be appropriate to direct the petitioner to deposit another sum of Rs.1,00,000/- within a time frame and on such payment being made, the recovery proceedings shall be directed to be kept in abeyance till the disposal of the appeal.

5. In view of the above, the petitioner is directed to deposit a sum of Rs.1,00,000/- within a period of four weeks from the date of receipt of a copy of this order. On such payment being made, the recovery proceedings shall be kept in abeyance till the disposal of the appeal.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

smi

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Income Tax (Appeals) XII, Chennai - 34.

2. Income Tax Officer, Ward-1 (1), Income Tax Office, Puducherry.

3. Tax Recovery Officer, Income Tax Officer, Puducherry.

+ 1 cc to Mr.R.Udhayakumar Advocate SR 62257

+ 1 cc to Mr.T.Pramadkumar Chopda, Advocate SR 25320

rsy(co)
prk14/12

W.P.No.36287 of 2015