IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.3.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6972 of 2015

M/s. P&C Constructions P.Ltd.,
P & C Towers,
140, Perundurai Road
Erode - 638 011
Rep.by its Chairman and Managing Director
Mr.S.P.Ravishankar .. Petitioner

.Vs.

1. The Joint Commissioner of
Income Tax, Range - I
No.15, Gandhiji Road,
Erode - 638 001

2. The Assistant Commissioner of
Income Tax, Office of the
Assistant Commissioner of Income Tax
Circle - 1, No.15, Gandhiji Road
Erode - 638 001

3. Indian Overseas Bank
Erode Main Branch
IOB Towers, 12, APT Road,
Sathy Road, Park Road Junction,
Erode - 638 003
Represented by its
Assistant General Manager

4. Commissioner of Income Tax (Appeals) - I
Race Course Road, Coimbatore . . Respondents

WEB COPY

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records relating to the order passed by the first respondent with regard to the petitioner, PAN No.AABCP2483L for the Assessment year 2011-2012 dated 25.8.2014 quash the same and consequently stay all further proceedings to Assessment order dated 08.3.2014 passed with respect to petitioner for the assessment year 2011-2012 by the first respondent pending disposal of the petitioner's appeal dated 23.4.2014 before the fourth respondent.

For Petitioner : Mr. Niranjan Rajagopalan
For Respondent : Mr.Promod Kumar Chopda

O R D E R

The petitioner has come up with the present Writ Petition to quash the impugned order dated 25.8.2014 passed by the first respondent.

2. The petitioner company is doing business in Civil Engineering Construction. The petitioner has filed his return for the Assessment year 2011-2012. The respondent passed the assessment order dated 08.3.2014 raising a demand of Rs.4,25,40,690/-. Aggrieved by the said assessment order, the petitioner preferred an appeal before the Commissioner of Income Tax (Appeals)-I, Coimbatore. During the pendency of the appeal, the assessee preferred a petition for stay of collection of tax. The Joint Commissioner, Income Tax, Range-I, Erode, after considering the plea of the petitioner, has passed an order rejecting the request of the petitioner. At that time, the petitioner has made a statement that he is willing to pay the arrears amount in instalments. Therefore, while rejecting the request made by the petitioner, the authority has stated that if the assessee wish to avail instalment facility, he is at liberty to approach the assessing officer, for whom necessary direction has been given, otherwise the assessee has to pay the entire arrears forthwith. Aggrieved by the said order, the petitioner is before this Court.

3. I have heard the submission made by the learned Counsel for the petitioner and the learned standing counsel for the respondent and perused the materials available on record.

4. It is not in dispute that at the time of rejecting the stay petition by the first respondent, the petitioner has made a statement before the authority that he is willing to pay the entire arrears amount in instalments. That being so, he cannot now contend that the order passed in the stay petition is wrong. Moreover, though the petitioner has disputed the liability, the demand of Rs.4,25,40,690/- is payable by the petitioner to the respondent. Admittedly, six months have been lapsed. Further, the accounting year would also come to an end on 31.3.2015.

5. In such circumstances, I am not inclined to interfere with the order passed by the first respondent. Therefore, I direct the petitioner to pay the aforesaid sum of Rs.4,25,40,690/- in three equal instalments on or before 31.3.2015. The first of such instalment shall be paid on or before 20.3.2015. The second instalment shall be paid on or before 27.3.2015 and the third and final instalment shall be paid on or before 31.3.2015. With regard to the disputed amount of tax including TDS is concerned, the same is payable by the petitioner subject to the outcome of

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

appeal/rectification.

6. Since the appeal is pending before the Commissioner of Income Tax (Appeals), Coimbatore, the authority is directed to dispose of the same within a period of three months from the date of receipt of a copy of this order. The petitioner is also at liberty to produce the details of payment and any other relevant particulars, if any.

7. The writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed. It is needless to point out that in case the petitioner fails to pay the above amount within the time stipulated above, the impugned order dated 25.8.2014 stands restored and the authority is at liberty to proceed with the matter in accordance with law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ga

To

1. The Joint Commissioner of
Income Tax, Range - I
No.15, Gandhiji Road, Erode - 638 001

2. The Assistant Commissioner of
Income Tax, Office of the
Assistant Commissioner of Income Tax
Circle - 1, No.15, Gandhiji Road
Erode - 638 001

3. Indian Overseas Bank
Erode Main Branch
IOB Towers, 12, APT Road,
Sathy Road, Park Road Junction,
Erode - 638 003
Represented by its
Assistant General Manager

4. Commissioner of Income Tax (Appeals) - I
Race Course Road, Coimbatore.

1 cc to M/s.G.R.Associates ,Advocate, SR.No.14260
1 cc to Mr. Promod Kumar Chopda,Advocate, SR.No.14135

W.P.No.6972 of 2015
and M.P.No.1 of 2015

ala(co)
pmk 13.3.2015

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/