BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :20.08.2015
CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
W.P(MD).No.12666 of 2015

N.Jegatheesan ... Petitioner

Vs.

1.The Chief Commissioner of Income Tax,
Income Tax Buildings,
Madurai - 625 002.

2.The Commissioner of Income Tax(Appeals) - II,
Income Tax Buildings,
Madurai - 625 002. ... Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to pass suitable orders on the basis of the petitioner's representation, dated 13.07.2015 to the second respondent to take up the appeal filed by the petitioner on 22.04.2015 against the orders passed under Section 143(3), dated 31.03.2015 of the DCIT, Non-Corporate Circle-2, Madurai in the case of N.Jegatheesan individual(PAN ADWPJ 3312K) A.Y.2012-2013 and to dispose of the same in accordance with law, within the specified time fixed by this Honourable Court.

For petitioner : Mr.H.Nazirudeen
For Respondents : Mr.R.Krishnamoorthy

ORDER

The Writ Petition has been filed praying for a Writ of Mandamus directing the first respondent to pass suitable orders on the basis of the petitioner's representation, dated 13.07.2015 to the second respondent to take up the appeal filed by the petitioner on 22.04.2015 against the orders passed under Section 143(3), dated 31.03.2015 of the DCIT, Non-Corporate Circle-2, Madurai in the case of N.Jegatheesan individual(PAN ADWPJ 3312K) A.Y.2012-2013 and to dispose of the same in accordance with law, within a stipulated time.

2. Mr.R.Krishnamoorthy learned counsel takes notice for the respondents.

3. By consent, this Writ Petition itself is taken up final disposal.

4.The case of the petitioner is that the petitioner is having Permanent Account Number(PAN) ADWPJ 3312 K/2(1)/MDU with status "Individual". The Petitioner filed return on income electronically on 29.12.2012 and the same was selected for scrutiny under Section 143(1) of the Income Tax Act and was completed on 31.03.2015 determining the income at Rs.55,91,680/- by rejecting the claim of agricultural income of Rs.45,00,000/- and Rs.10,00,000/- an account of repayment of loan. The Assessing Officer erred in holding that the petitioner was not carrying any agricultural operations despite the affidavit filed by one Mr.Balaguru, who is the petitioner's lessor, with the particulars of all Government records stands in the name of the petitioner. Hence, the petitioner preferred an appeal before the second respondent on 22.04.2015 challenging the order passed by the Assessing Officer. In the meantime, a petition was filed before the Assessing Officer to grant stay of the collection of the demand till the disposal of the appeal by the second respondent. The Assessing Officer instead of passing stay order directed the petitioner to pay 50% of the amount immediately by his order, dated 12.05.2015. Aggrieved against the order passed by the Assessing Officer, the petitioner filed a Writ Petition before this Court in W.P(MD)No.10171 of 2015 and got stay order on 23.06.2015 and the same was further extended till 23.07.2015. Thereafter, the petitioner sent a representation to the second respondent on 29.06.2015 to dispose of the appeal filed by the petitioner. But the second respondent directed the petitioner to approach the first respondent by way of an application for taking the appeal on priority basis. Thereafter, the petitioner made a representation before the first respondent on 13.07.2015 to take up the appeal on priority basis. But the same was not considered so far. Hence, the petitioner has come up with this Writ Petition for the above stated relief.

5. When the matter is taken up for hearing the learned counsel for the petitioner submitted that a direction may be issued to dispose of the appeal filed by the petitioner within a stipulated time.

6. But the learned counsel appearing for the respondents submitted that that the appeal was filed only in the month of April 2015, hence, there is no need to give direction to dispose of the appeal by fixing the time limit.

7. However, I am of the opinion that in the interest of justice by giving sufficient time, direction may be given to the second respondent to dispose of the appeal. Hence, without going into the merits of the matter, this Court directs the second respondent to dispose of the appeal filed by the petitioner dated 22.04.2015 on merits and in accordance with law by affording opportunity of hearing to the petitioner, within a period of six months from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

pm

To

1.The Chief Commissioner of Income Tax,
Income Tax Buildings, Madurai - 625 002.

2.The Commissioner of Income Tax(Appeals) - II,
Income Tax Buildings, Madurai - 625 002.

+one cc to M/s.Babu Rajendran, Advocate in SR.No.48282/15
+one cc to Mr.R.Krishnamoorthy, Advocate in SR.No.48295/15

W.P(MD).No.12666 of 2015
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CSL/NGM-SS/10.09.2015
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