BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :20.08.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No. 12667 of 2015

M/s.Jas Impex,
Represented by its Managing Parner,
Mr.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 order passed under Section 143(3), dated 31.03.2015 of the DCIT, Non-Corporate Circle-2, Madurai in the case of M/s.Jas Impex,(PAN AAFFJ 3225L) for the 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 order passed under Section 143(3), dated 31.03.2015 of the DCIT, Non-Corporate Circle-2, Madurai in the case of M/s.Jas Impex,(PAN AAFFJ 3225L) for the A.Y.2012-2013 and to dispose of the same in accordance with law within the specified time fixed by this Honourable Court.

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 firm is doing business in trading medical herbal seeds and is an income-tax assessee for the past 10 years and having Permanent Account Number AAFFJ 3525L. The Petitioner filed return on income electronically on 29.12.2012 and the same was processed under Section 143(1) of the Act. The case was selected under CASS and notices were issued and later on, the file of the petitioner was transferred to DCIT, Non-Corporate circle(2), Madurai on 16.02.2015. Further, notice under Section 142(1) of the Act was issued to the petitioner, for which, the representative of the petitioner appeared and filed the details including names and addresses and PAN Number of the sundry creditors and other liability. It is stated in the assessment order that no address of creditors/other liability was filed by the petitioner and he made an addition of Rs.11,73,85,603/- being sundry creditors and Rs.7,96,16,433/- being other liability as unexplained credit under Section 68 of the IT Act. It is submitted by the Assessing Officer that while making an addition, he has also taken the opening balance of Rs.11,10,31,318/- as on 01.04.2011 being Sundry Creditors and Rs.5,93,08,433/- as on 01.04.2011 being other liability, which is not in accordance with law and against accounting principles and those are related to the earlier assessment years. In order to finalize the assessment, the Assessing Officer issued summons to the petitioner to produce persons from Delhi and other Districts of Tamil Nadu. Thereafter, 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. Further, the petitioner has also filed a petition under Section 154 of I.T Act before the Assessing Officer, but the same was rejected. Aggrieved against the order passed by the Assessing Officer, the petitioner filed a Writ Petition before this Court in W.P(MD)No.1072 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 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 Mr.R.Krishnamoorthy, Advocate in SR.No.48294/15

W.P(MD).No.12667 of 2015
20.08.2015

CSL/NGM-SS/10.09.2015
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