IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:01.06.2016

Coram

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14415 of 2016
and
W.M.P.Nos.12605 and 12606 of 2016

M/s.Infodrive Software Ltd.
No.3 Moore Road Chennai - 2
Rep. by its Director
V.N.Seshagiri Rao

..Petitioner

/vs/

1 Commissioner of Income Tax (Appeals) 6
121 MG Road, Nungambakkam
Chennai - 34

2 Joint Commissioner of Income Tax
Corporate Range 2,
121 MG Road, Nungambakkam
Chennai - 34.

3 The Deputy Commissioner of Income Tax
Company Circle - II (2)
Room No. 513, New Block
121 MG Road, Nungambakkam
Chennai - 34.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus Calling for the records of the 3rd respondent contained in its impugned notice bearing No.F.No.226(3)/AAACI9430R/2015-16 dated 09.03.2016 passed under Section 226(3) of the Income Tax Act 1961, and to quash the same and to consequently forebear the respondents or any of their subordinates, agents or any other person claiming under the respondents from in any manner seeking to freeze any of the bank accounts of the petitioner or in any manner maintain a garnishee order pending disposal of stay petitions filed by the petitioner pending on the files respectively of the 1st and 2nd respondent for Assessment Years 2010-11 and 2009-10.

For Petitioner : Mr.Suhrith Parthasarathy
For Respondents : Mr.S.Rajkumar

O R D E R

The petitioner is aggrieved by the notice issued by the third respondent / Assessing Officer under Section 226(3) of the Income Tax Act, 1961 (herein after referred to as an Act).

2. In the impugned notice, the petitioner has been informed that a sum of Rs.6,35,93,930/- is due and payable by them on account of income tax assessment under Section 143(3) of the Act for the assessment years 2009-10 and 2010-11. The petitioner has been advised to deposit the money to the credit of the Central Government and produce necessary challans.

3. It is seen that as against the original assessment order dated 31.12.2012 for the assessment year 2010-11, the petitioner has filed an appeal before the Commissioner of Income Tax (Appeals) on 04.02.2013 and the Appeal is still pending. As against the original assessment made for the assessment year 2009-10 dated 18.02.2015, the petitioner has filed an Appeal before the first respondent on 06.04.2015.

4. The learned counsel appearing for the respondent does not dispute the fact that both the appeals are pending before the Commissioner of Income Tax (Appeals).

5. The petitioner filed a stay application before the Assessing Officer / third respondent, in respect of the assessment for the year 2010-11. The Assessing Officer / third respondent passed an order on 29.07.2013 under Section 220(6) of the Act which was challenged by the petitioner in W.P.No.21969 of 2013 and the said Writ Petition was allowed by order dated 07.08.2013 with the direction to the petitioner to file a stay application before the Commissioner of Income Tax and in the event of such application being filed, the Commissioner was directed to consider the same and dispose of it on merits. The petitioner has complied with the said condition and he has filed the said application dated 08.08.2013, which was received by the office of the Commissioner of Income Tax (Appeals) on 13.08.2013.

6. Insofar as the assessment for the year 2009-10, the petitioner filed a stay application before the Assessing Officer on 06.07.2015 and the third respondent passed an order on 16.07.2015, which order was not complied with by the petitioner, but the petitioner filed another stay application before the Additional Commissioner of Income Tax on 11.08.2015. This stay application is still pending as could be seen from the communication sent to the petitioner by the Joint Commissioner of Income Tax, Corporate Range, Chennai, dated 20.08.2015. The said authority had fixed the date of hearing on 31.08.2015.

However, on the said date, the petitioner sought for adjournment as the authorised representative was not in the Country.

7. In the light of the fact that the stay applications are pending before the first respondent as well as the Joint Commissioner of Income Tax, Corporate Range, Chennai, it would be appropriate for the said authorities to dispose of the matter as expeditiously as possible.

8. The learned standing counsel appearing for the respondents would submit that minimum four weeks time is required to consider the stay applications filed by the petitioner before the respondents and pass orders on merits and in accordance with law.

9. In the light of the above, there will be a direction to the respondents to consider the stay application of the petitioner dated 08.08.2013, which was received by the office of the Commissioner of Income Tax (Appeals) on 13.08.2013 pertaining to the assessment year 2010-11 and the stay application dated 11.08.2015 pending before the Joint Commissioner of Income Tax, Corporate Range, Chennai, pertaining to the assessment year 2009-10, within a period of four weeks from the date of receipt of a copy of this order. The authorities are directed to afford an opportunity of personal hearing to the petitioner. The authorised representative of the petitioner and the petitioner shall appear before the concerned respondent on the date fixed without seeking for any adjournment.

10. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

mra

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

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Chennai - 34.

+1cc to Mr.Arun Karthik Mohan, Advocate S.R.No.29160

+1cc to Mr.T.Pramodkumar Chopda, Advocate S.R.No.29405

KR/9/6/2016

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