IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.18026, 18034 & 18035 of 2015
and
M.P.Nos.1 to 1, 2 to 2 of 2015

W.P.No.18026/2015

T.Rajkumar
705-D, Avinashi Road
Coimbatore - 641 018

Rep by Power of Attorney Holder
Mr.P.Sivakumar .. Petitioner

..Vs..

1.Union of India
Ministry of Finance
Department of Revenue
Rep. by its Secretary
Room No.46, North Block
New Delhi - 110 001.

2.Income Tax Officer (International Taxation)
Coimbatore
2nd Floor, Annexure Building
63, Race Course Road
Coimbatore - 641 018. .. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records and quashing the order dated 27.04.2015 passed by the second respondent against the petitioner under Section 201(1)/201(1A) of the Income Tax Act, 1961 and the Notice of Demand dated 27.04.2015 under Section 156 of the Income Tax Act and consequently forbear the 1st and 2nd respondent from proceeding against the petitioner on the levying and/or collecting tax on the basis of Section 94A(5) of the ITA.

W.P.No.18034/2015

T.K.Dhanashekar
S/o.T.A.Krishnasamy
51, Appusamy Layout
Red Fields
Coimbatore - 641 045.

Rep by Power of Attorney Holder
Mr.P.Sivakumar .. Petitioner

..Vs..

1.Union of India
Ministry of Finance
Department of Revenue
Rep. by its Secretary
Room No.46, North Block
New Delhi - 110 001.

2.Income Tax Officer (International Taxation)
Coimbatore
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W.P.No.18035/2015

K.Dhanakumar
51, Appusamy Layout
Red Fields
Coimbatore - 641 045.

Rep by Power of Attorney Holder
Mr.P.Sivakumar .. Petitioner

..Vs..

1.Union of India
Ministry of Finance
Department of Revenue
Rep. by its Secretary
Room No.46, North Block
New Delhi - 110 001.

2.Income Tax Officer (International Taxation)
Coimbatore
2nd Floor, Annexure Building
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Prayer:
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For Petitioner
in all the WPs : Mr.P.Giridharan
For Respondents
in all the WPs : Mr.T.Pramod Kumar Chopda

COMMON ORDER

Heard Mr.P.Giridharan, learned counsel appearing for the petitioner and Mr.T.Pramod Kumar Chopda, learned counsel appearing for the respondents and with the consent of the either side, the writ petitions are taken up for final disposal.

2.The petitioners have filed these writ petitions challenging the orders passed by the second respondent under Section 201(1)/201(1A) of the Income Tax Act, 1961 and the Notice of Demand under Section 156 of the Income Tax Act and to consequently forbear the respondents 1 and 2 from proceeding against the petitioner by levying and/or collecting Income Tax on the basis of Section 94A(5) of the Act.

3.The petitioners have earlier filed writ petitions challenging the constitutional validity of Section 94A(1) of the Income Tax Act in W.P.Nos.17241 to 17243 and 17407 to 17412 of 2015. The declaratory relief sought for by the petitioners was negatived by the Hon'ble Division Bench of this Court by judgment dated 12.04.2016 and all the writ petitions have been dismissed.

4.It is not in dispute that as against the order passed by the second respondent under Section 201(1)/201(1A) of the Income Tax Act, 1961 dated 27.04.2015, the petitioners have filed appeals before the Commissioner of Income Tax (Appeals), Coimbatore and the appeals are pending. Since the writ of declaration filed by the petitioners was dismissed, the petitioners have filed Special Leave Petition before the Hon'ble Supreme Court in Special Leave to Appeal (C) Nos.13659 to 13667/2016 and the Hon'ble Supreme Court while issuing notice has directed that no recovery shall be effected. Therefore, as on date, the petitioners need not have any apprehension that the impugned orders would be given effect to by the second respondent or any recovery would be made against them.

5.Furthermore, the petitioners cannot challenge the impugned orders dated 27.04.2015 by filing these writ petitions, when they have availed the statutory appellate remedy. Therefore, these writ petitions are closed, leaving it open to the petitioners to work out their remedies, after the disposal of the matter which is now pending before the Hon'ble Supreme Court. Consequently, connected miscellaneous petitions are closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
Union of India
Ministry of Finance
Department of Revenue
Room No.46, North Block
New Delhi - 110 001.

2.Income Tax Officer (International Taxation)
Coimbatore
2nd Floor, Annexure Building
63, Race Course Road
Coimbatore - 641 018.

+1 cc to Mr.P.Giridharan Advocate sr.32400

+1 cc to Mr.E.Pramodkumar Chopda Advocate sr.31774

W.P.Nos.18026, 18034 & 18035 of 2015
and
M.P.Nos.1 to 1 & 2 to 2 of 2015

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aa30/06/2016