IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20017 of 2016 &

WMP No.17254 of 2016

Dr.G.Usha Gurram Reddy .. Petitioner

Vs

1 The Deputy Commissioner of Income Tax
Non Corporate Circle 2
No.121, Nungambakkam High Road
Nungambakkam, Chennai 600 034. .. Respondent

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari to call for the records of the respondent on the file in PAN No.AADOR6837M/2016-17 for the Assessment Year 2005-2006 and quash the impugned notice dated 06.06.2016 for recovery of the sum of Rs.21,08.000/- being recovery of Penalty under Section 27 (1)(c) of the Act along with interest under Section 220 (2) of the Act.

For Petitioner : Mr.J.Balachander
For Respondent : Mr.Arun Kurian Joseph
for Mr.T.Ravikumar

O R D E R

Heard Mr.J.Balachander, learned Counsel appearing for the petitioner and Mr.Arun Kurian Joseph, learned counsel accepting notice on behalf of the respondent and with the consent of learned counsel appearing on either side, this writ petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition challenging the proceedings issued by the respondent dated 06.06.2016, in and by which the petitioner has been called upon to pay the penalty under section 27(1)(c) of the Income Tax Act for the assessment year 2005-06, on the ground that the demand of penalty had become a crystalised demand as the Appeal filed by the petitioner as against the said order levying penalty was dismissed by the Commissioner of Income Tax (Appeals), by an order dated 30.03.2016.

3.The learned counsel for the petitioner submitted that the respondent ought not to have initiated coercive action against the petitioner, since the petitioner is entitled to file an Appeal against the said order before the Income Tax Appellate Tribunal and the period of limitation would expire only during August, 2016. Further, as a matter of fact, the petitioner has filed the Appeal before the Income Tax Appellate Tribunal on 13.06.2016 and it is stated by the learned counsel for the petitioner that the appeal has been filed in the proper format and there would be no difficulty for the Registry of the Tribunal in numberring the Appeal. However, it is seen that the petitioner is yet to move an Application for Stay before the Income Tax Appellate Tribunal.

4.Therefore, taking note of the fact that the petitioner has already filed an Appeal before the Tribunal, the petitioner is granted four weeks time from the date of receipt of a copy of this order to move a Petition for Stay of the order levying penalty on the petitioner for the relevant assessment order and till then, the impugned order dated 06.06.2016, shall be kept in abeyance. In the event the petitioner is unable to produce any order of stay before the respondent within the time stipulated by this Court in this order, it would be open to the respondent to proceed further pursuant to the impugned notice dated 06.06.2016.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rpa
To
1 The Deputy Commissioner of Income Tax
Non Corporate Circle 2
No.121, Nungambakkam High Road
Nungambakkam, Chennai 600 034.

+1cc to Mr.C.Balachander, Advocate sr.7770
+1cc to Mr.T.Ravikumar, Advocate Sr.32030

W.P.No.20017 of 2016

sai[co]
srg 14/06/2016