IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.41063 of 2015
and M.P.No.1 of 2015

M/s.Tebma Shipyards Ltd.,
Incorporated under the Provisions of
The Companies Act, 1956
rep by its Chief Executive Officer
N.Ramanathan
5/360, Rajiv Gandhi Salai,
Okkiyam, Thoraipakkam,
Chennai - 600 097. ... Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Corporate Circle 3(1),
121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

2.The Commissioner of Income Tax (Appeals)-11,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

3.The Tax Recovery Officer-3,
Office of the Principal Commissioner
of Income Tax - 3,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 1st respondent and consequently quash the impugned notice in TR No.187-T/TRO-3/2015-16 dated 15.12.2015 passed by the 3rd respondent for the assessment years 2006-07, 2008-09, 2009-10 and direct the 3rd respondent not to take any recovery proceedings until the disposal of the appeals before the 2nd respondent.

For Petitioner : Mr.R.Sivaraman

For Respondents : Ms.V.Pushpa for Mr.M.Swaminathan, Standing Counsel for Income Tax

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the 1st respondent and consequently quash the impugned notice in TR No.187-T/TRO-3/2015-16 dated 15.12.2015 passed by the 3rd respondent for the assessment years 2006-07, 2008-09, 2009-10 and direct the 3rd respondent not to take any recovery proceedings until the disposal of the appeals before the 2nd respondent.

2.It is not in dispute that the appeals preferred by the petitioner are pending before the 2nd respondent for consideration. It is also brought to the notice of this Court by the learned counsel for the petitioner that the 1st respondent had granted an order of stay in respect of assessment years 2008-09, 2009-10 till 31.03.2016 or till the disposal of the appeals, whichever is earlier, subject to adjustment of refund amount of assessment year 2012-13. In spite of the order of stay granted by the 1st respondent, the 3rd respondent had passed the impugned order dated 15.12.2015 directing the petitioner to pay the amount within fifteen days.

3.Ms.V.Pushpa, learned Standing Counsel appearing for the respondents submitted that the 2nd respondent may be directed to dispose of the appeals within a stipulated time.

4.In spite of the interim stay granted by the 1st respondent, the 3rd respondent should not have passed the impugned notice dated 15.12.2015, which is under challenge. When the 1st respondent had granted an order of stay till the disposal of the appeals, the impugned order dated 15.12.2015 passed by the 3rd respondent is liable to be set aside. Accordingly, the same is set aside and the 2nd respondent is directed to dispose of the petitioner's appeals within a period of six weeks from the date of receipt of a copy of this order.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Assistant Commissioner of Income Tax,
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+1 cc to Mr.M.Swaminathan Advocate sr.11228/16

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