IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.35434 of 2016
and
WMP.Nos.30497 & 30498 of 2016

V.Balaraman ... Petitioner

-Vs-

1. The Assistant Commissioner of Income Tax,
   Non Corporate Circle-15(1)
   Chennai-600 034.

2. The Commissioner of Income Tax (Appeals)-15,
   121, Nungambakkam High Road,
   Chennai-600 034. ... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ, Order or Direction to call for the records of the 1st Respondent and quash the Garnishee proceedings u/s.226(3) of the Act in PAN/GIR : AAAPB3329D dated 15.09.2016 and forbear the 1st Respondent from initiating recovery proceedings for the assessment year 2013-14 till the disposal of the appeal by the 2nd Respondent

For Petitioner : Mr.Vijayaraghavan
for Mr. Subbaraya Aiyar Padmanabhan

For Respondents : Mr.J.Narayanaswamy
Standing Counsel

O R D E R

Heard Mr.Vijaya Raghavan, learned Counsel appearing on behalf of Mr.Subbaraya Aiyar Padmanabhan, learned counsel for the petitioner and Mr.J.Narayanaswamy, learned Standing Counsel appearing on behalf of the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.The petitioner has filed this Writ Petition, challenging the Notice issued under section 226(3) of the Income Tax Act, 1961, calling upon the petitioner to remit a sum of Rs.5,38,96,720/-, being the amount due and payable towards the Income-tax, penalty/interest/fine, for the assessment year 2013-14. Pursuant to the said notice, the petitioner's Bank Account maintained at the State Bank of India and two other accounts maintained at the HDFC Bank have been attached.

3.The contention raised by the learned counsel for the petitioner is that as against the order of assessment, the petitioner has filed an Appeal before the Commissioner of Income Tax (Appeals)-15, the second respondent on 25.04.2016 and the said appeal is pending. After preferring the Appeal, the petitioner filed a Petition seeking for Stay before the first respondent on 29.04.2016 and the said Petition is pending. The learned counsel on instructions would state that till date no order has been passed by the first respondent on the Petition for stay.

4.In such circumstances, the first respondent was not justified in attaching the petitioner's Bank Accounts straight away when the Petition for stay is pending before the first respondent and no orders have been passed so far. Therefore, this Court is inclined to consider and grant appropriate relief.

5.Accordingly, the impugned proceedings shall remain stayed and consequently, the attachment of the petitioner's Accounts maintained at the State Bank of India and two other accounts maintained at the HDFC Bank shall be lifted and the first respondent is directed to hear and decide the Petition of Stay filed on 29.04.2016, after affording an opportunity of personal hearing to the authorised representative of the petitioner and such order shall be passed within a period of six weeks from the date of receipt of a copy of this order. The further proceedings issued under section 226 (3) of the Income Tax Act would abide by the orders to be passed by the first respondent on the Petition for Stay.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

RPA

To

1. The Assistant Commissioner of Income Tax,
   Non Corporate Circle-15(1)
   Chennai-600 034.

2. The Commissioner of Income Tax (Appeals)-15,
   121, Nungambakkam High Road,
   Chennai-600 034.

+1cc to Mr.J.Narayanaswamy, Advocate, S.R.No.57644
+1cc to Mr.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.57643

W.P.No.35434 of 2016

GM1(CO)
CA(08/11/2016)