IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.727 of 2016
and
WMP.No.543 of 2016

Alpha Educational Society,
Rep. by Trustee:Grace George,
No.18, 3rd Cross,
West CIT Nagar,
Chennai 600 035. ... Petitioner

Vs

1. The Deputy Director of Income Tax,
   Exemption - III,
   Aayakar Bhavan,
   No.121, Nungambakkam High Road,
   Nungambakkam,
   Chennai 600 034.

2. The Commissioner of Income Tax (Appeals)-V,
   Aayakar Bhavan,
   No.121, Nungambakkam High Road,
   Nungambakkam,
   Chennai 600 034. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent in PAN:AAATA4903C/A.Y.2011-12/679 and quash the order dated 12.06.2014 for the assessment year 2011-2012.

For Petitioner : Mr.Kumarpal R.Chopra
For Respondents : Mr.P.Rajkumar Jabaku

O R D E R

By consent, the writ petition is taken up for final disposal.

2.Challenging the order dated 12.06.2014 passed by the first respondent relating to the assessment year 2011-12, the petitioner has filed this writ petition.

3.According to the petitioner, the petitioner is a registered trust with an object to provide education to public. For the assessment year 2011-12, they duly filed its return, claiming exemption under Section 11 of the Income Tax Act. On Scrutinising the same, a notice under section 143(2) came to be issued on the petitioner. Thereafter, assessment order dated 31.03.2014 came to be passed, thereby demanding a sum of Rs.81,89,770/- towards tax payable by the petitioner. Aggrieved against the same, the petitioner preferred an appeal before the second respondent on 10.04.2014 and the same is pending.

4.It is the further case of the petitioner that the petitioner filed a petition dated 19.04.2014 before the first respondent for staying the collection of the demand. The first respondent, by the impugned order dated 12.06.2014, directed the petitioner to pay 50% of the demand i.e., Rs.40,94,885/- in 4 instalments. It is also stated in the impugned order that the payment of remaining 50% of tax i.e., Rs.40,94,885/- will be kept in abeyance till the disposal of CIT(A) or 15.03.2015 whichever is earlier subject to certain conditions. Accordingly, the petitioner paid two instalments i.e., Rs.20,00,000/-. However, due to severe financial hardship, the petitioner was unable to pay the remaining two instalments. Hence, the petitioner is before this court for appropriate relief.

5.Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

6.Considering the fact that the petitioner has already paid two instalments and also taking into account the circumstances under which the petitioner is unable to pay the remaining two instalments, this Court is inclined to modify the order dated 12.06.2014 passed by the first respondent. Accordingly, the impugned order is modified to the effect that the payment of remaining two instalments by the petitioner for the months of August and September 2014 to the tune of Rs.20,94,885/- and the balance 50% of tax i.e., Rs.40,94,885/- shall be kept in abeyance till the disposal of the appeal filed by the petitioner. The second respondent Appellate Authority is directed to dispose of the appeal on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner within a period of six months from the date of receipt of a copy of this order.

7.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

rk

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Deputy Director of Income Tax,
   Exemption - III, Aayakar Bhavan,
   No.121, Nungambakkam High Road,
   Nungambakkam, Chennai 600 034.

2. The Commissioner of Income Tax (Appeals)-V,
   Aayakar Bhavan, No.121, Nungambakkam High Road,
   Nungambakkam, Chennai 600 034.

+ 1 cc to Mr.T.Pramodkumar Chopda, Advocate SR 2637

+ 1 cc to Mr.Kumarpal R.Chopra, Advocate SR 2654

tej(co)
prk25/1 W.P.No.727 of 2016