IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-02-2016

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

W.P.No.797 of 2016
and
WMP Nos.614 and 615 of 2016

M/s IFMR Trust
IITM Research Park
A-1, 10th floor,
Kanagam Village,
Taramani,
Chennai - 600 113 .... Petitioner

vs

The Assistant Commissioner of Income Tax,
Non-corporate Circle - 13(1),
Aayakar Bhawan,
Annexe Building,
121, M G Road,
Chennai - 600 034 ..... Respondent

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the respondent and quash the impugned notice under Section 226(3) of the Income Tax Act dated 05.01.2016 and direct the respondent to raise the attachment order issued and restrain the respondent from further recovering the outstanding demand for the Assessment Years 2010-11 and 2012-13 until the disposal of the appeal before the Income Tax Appellate Tribunal, Chennai and Commissioner of Income-Tax (Appeals).

For petitioner : Mr.N. Venkataraman
Senior Counsel for
Mr.Sandeep Bagmar.R

For respondent : Mr.M. Swaminathan
Standing Counsel
assisted by
Ms.V. Pushpa

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the respondent and quash the impugned notice under Section 226(3) of the Income Tax Act dated 05.01.2016 and direct the respondent to raise the attachment order issued and restrain the respondent from further recovering the outstanding demand for the Assessment Years 2010-22 and 2012-13 until the disposal of the appeal before the Income Tax Appellate Tribunal, Chennai and Commissioner of Income-Tax (Appeals).

2. The present writ petition has been filed by the petitioner to quash the Attachment Notice, issued by the respondent to the ICICI Bank Limited, Cenatoph Road Branch, Chennai - 18, where, the petitioner has its Bank Account to recover a sum of Rs.5,51,87,644/-, being the Income Tax amount due for the Assessment Years 2010-11 and 2012-13 and also to direct the respondent not to recover the outstanding tax demand.

3. According to the petitioner, the Attachment Notice is ex-facie, illegal, arbitrary and malafide and the outstanding income tax demand for the Assessment Year 2010-11 has been stayed by this Court in TCA No.532 of 2015 dated 30.06.2015, therefore, attaching the bank account of the petitioner, in sofar as to recover the tax demand for the Assessment Year 1010-11 is in complete violation of the order of this Court.

4. As regards the outstanding tax demand for the Assessment Year 2012-13, being Rs.2,25,93,930/-, the petitioner had filed a stay application under Sec.220(3) of the Income Tax Act on 05.05.2015 and the said application is pending before therespondent. According to the petitioner, without disposing the stay application, the respondent had initiated the recovery proceedings.

5. The petitioner contended that during the Assessment Year 2012-13, they have not undertaken activities under Segment I as it has not incubated any new entities during the Financial Year 2011-12 and the petitioner had only pursued the business activity of providing Shared services and Infrastructure services and consequently earned income from Shared services and Infrastructure services as also interest income from loans and investments.

6. The petitioner further contended that the entire expenditure debited during the Assessment Year 2012-13 is towards undertaking business activities under Segment II in providing Shared services and Infrastructure services and loans and investments.

7. Mr.N. Venkataraman, learned Senior counsel, appearing for the petitioners submitted that by attachment of the Bank Account, the petitioners are put to hardship and prejudiced and that, the petitioner has got a very good case before the Tribunal.

8. Mr.M. Swaminathan, learned Standing Counsel, appearing for the respondent submitted that the petitioner may be directed to deposit atleast Rs.50,00,000/- out of the demand, made by the respondent and in such an event, the order of attachment passed against the petitioner may be raised.

9. Haviing regard to the submissions made by the learned counsel on either side, I am of the view that the petitioner can be directed to deposit a sum of Rs.25,00,000/-(Rupees twenty five lakhs only), out of the demand made by the respondent and in such an event, the order of attachment, passed against the petitioner, can be raised.

10. Accordingly, the petitioner is directed to deposit a sum of Rs.25,00,000/-(Rupees twenty five lakhs only) before the respondent, within a period of one week from the date of receipt of a copy of this order and on such deposi being made by the petitioner, the attachment, made as against the petitioner, shall be raised.

11. The Commissioner of Income Tax (Appeals) is directed to dispose of the appeal, filed by the petitioner, on merits and in accordance with law, within a period of four weeks form the date of receipt of a copy of this Order.

12. With these observations, the writ petition is disposed of. No costs. Consequently, connnected MPs are closed.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner of Income Tax,
Non-corporate Circle - 13(1),
Aayakar Bhawan,
Annexe Building,
121, M G Road,
Chennai - 600 034

+1cc to Mr.Sandeep Bagmar, Advocate, S.R.No.10720
+1cc to Mr.M. Swaminathan, Advocate, S.R.No.10608

JSV(CO)
EU(23/02/2015)

W.P.No.797 of 2016