

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.8520 of 2016

and

WMP No.7581 of 2016

Dr.Pratima Venkatachalam .. Petitioner

v.

1. The Commissioner of Income Tax (Appeals),
No.121, Nungambakkam High Road,
Chennai - 600 034
2. Income Tax Officer, International Taxation-2(1),
7th floor, Annex Building, No.121,
Nungambakkam High Road,
Chennai - 600 034 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records and quash the order bearing No.ITA.No./CIT (A)-16/2015-16 dated 30.09.2015 on the file of the 1st respondent The Commissioner of Income Tax (Appeals), Chennai-34 and consequently forbear the second respondent from initiating any proceedings for the recovery of Income Tax till the disposal of the Appeal pending on the file of the first respondent The Commissioner of Income Tax (Appeals), Chennai-34.

For Petitioner : M/s Gupta and Ravi

For Respondents : Mr.Arun Kurrian Joseph
for Mr.T.Ravikumar
Standing Counsel

ORDER

Challenging the order dated 30.09.2015 on the file of the first respondent, the petitioner has filed the above writ petition for issuance of a writ of Certiorarified Mandamus and consequently forbearing the second respondent from initiating any proceedings for the recovery of Income Tax till the disposal of the Appeal pending on the file of the first respondent.

2. According to the petitioner, she preferred an appeal before the first respondent on 15.04.2015 and also filed an application for the grant of stay before the second respondent . By order dated 04.06.2015, the first respondent refused to stay the collection of the demand and the petitioner was directed to deposit the amount. Thereafter, the petitioner filed a petition before the first respondent on 12.06.2015, seeking for an order of interim stay to ensure that no recovery proceedings are initiated by the second respondent as per its impugned order dated 4.6.2015. However, notwithstanding the pendency of the stay application, the second respondent issued a notice dated 14.08.2015, calling upon the petitioner to pay the demand of Rs.98,73,120/-immediately and produce the copy of the challan for the payment of tax. Aggrieved over the issuance of notice dated 14.08.2015, the petitioner has filed a Writ Petition in WP No.28629 of 2015 before this Court. By Order dated 11.9.2015, this Court set aside the notice dated 14.08.2015, issued by the second respondent and directed the first respondent to pass orders in the stay petition, filed by the petitioner, within a period of four weeks. The first respondent, by order dated 30.09.2015, granted an order of stay on condition that the petitioner paying 40% of the demand and stayed the balance demand till the disposal of the appeal, filed by the petitioner. Aggrieved over the order dated 30.09.2015, the petitioner has filed the above writ petition.

3. When the matter came up for hearing on 08.03.2016, this Court granted an order of interim stay on condition that the petitioner paying 25% of the demand within ten days.

4. When the matter is taken up for hearing today, the learned counsel on either side, submitted that the petitioner had complied with the conditional order passed by this court on 08.03.2016. Admittedly, the appeal, filed by the petitioner, is pending before the first respondent.

5. Mr.Arun Kurrian Joseph, learned Standing Counsel, appearing for the respondents, submitted that the petitioner had complied with the order by paying 25% of the demand.

6. Since the petitioner had paid 25% of the demand, which was also admitted by the standing counsel appearing for the respondents, the impugned order dated 30.09.2015 is modified as follows:

"There shall be an order of interim stay till the disposal of the appeal, preferred by the petitioner on payment of 25% of the demand, which was already paid by the petitioner. The first respondent is directed to decide the appeal and pass orders in the appeal, on merits and in

accordance with law within three months from the date of receipt of a copy of this order and till such time, there shall be an order of interim stay.

With this observation, the writ petition is disposed of. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Commissioner of Income Tax (Appeals),
No.121, Nungambakkam High Road,
Chennai - 600 034
2. Income Tax Officer, International Taxation-2(1),
7th floor, Annex Building, No.121,
Nungambakkam High Road,
Chennai - 600 034

+1cc to Mr.T. Ravikumar, Advocate, S.R.No.21358
+1cc to M/s. Gupta & Ravi, Advocate, S.R.No.21426

NM(CO)
EU(/04/2016)

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