IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2016

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THE HONOURABLE MR. JUSTICE M.DURAISWAMY

W.P.No.8801 of 2016
and
W.M.P.Nos.7817 and 7818 of 2016

M/s.Nagarjuna Oil Corporation Limited
New No.53, (Old No.31),
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004. ... Petitioner

Vs

1. The Deputy Commissioner of Income Tax,
   Corproate Circle 4,
   Chennai - 600 034,

2. Office of the Assistant Commissioner of
   Income Tax, Corporate Circle 4(2),
   Room No.433, IV Floor, Ayakar Bhavan,
   No.121, Uthamar Gandhi Salai,
   Chennai - 600 034,

3. The Branch Manager,
   Indian Overseas Bank,
   No.32, R.K.Salai, Mylapore,
   Chennai - 600 004. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorarified mandamus to call for the records of the 2nd respondent comprised in the impugned demand notice bearing PAN No.AAACN9369E dated 23.12.2015 and the consequent notice for recovery issued under Section 226(3) of the Income Tax Act, 1961 bearing P.A.No. AAACN9369E dated 23.02.2016 issued to the 3rd respondent by the 2nd respondent and to quash the same as being arbitrary, illegal and passed without authority of law and application of mind and consequently direct the 2nd respondent to refund any and all amounts recovered for the Assessment Year 2012-13 pursuant to the impugned demand notice dated 23.12.2015 and garnishee notices to banks and financial institutions and desist from taking any action towards recovery and to pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.T.Rajasekar
for Mr.T.Pramod Kumar Chopda,
Standing Counsel for RR.1 and 2
Mr.F.B.Benjamin George for R.3

O R D E R

The above writ petition has been filed by the petitioner to issue writ of certiorarified mandamus to call for the records of the 2nd respondent comprised in the impugned demand notice bearing PAN No.AAACN9369E dated 23.12.2015 and the consequent notice for recovery issued under Section 226(3) of the Income Tax Act, 1961 bearing P.A.No. AAACN9369E dated 23.02.2016 issued to the 3rd respondent by the 2nd respondent and to quash the same and consequently direct the 2nd respondent to refund any and all amounts recovered for the Assessment Year 2012-13 pursuant to the impugned demand notice dated 23.12.2015 and garnishee notices to banks and financial institutions and desist from taking any action towards recovery.

2. It is the case of the petitioner that the impugned notice has been issued by the 2nd respondent even before the expiry of the period of limitation specified in Section 260-A of the Income-tax Act .The impugned order was passed on 17.2.2016 and the impugned notice was issued by the 2nd respondent on 23.2.2016 without waiting for the expiry of 120 days time for filing a Tax Case as contemplated under Section 260-A of the Income-tax Act.

3. Since the impugned notice has been issued by the 2nd respondent in a hurried manner without waiting for the expiry of the period of limitation, the same is liable to be set aside. Accordingly, the impugned notice is set aside. However, it is open to to respondents 1 and 2 to issue notice after the expiry of the period contemplated under Section 260-A of the Income-tax Act.

The writ petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner of Income Tax,
   Corproate Circle 4,
   Chennai - 600 034,

2. Office of the Assistant Commissioner of
   Income Tax, Corporate Circle 4(2),
   Room No.433, IV Floor, Ayakar Bhavan,
   No.121, Uthamar Gandhi Salai,
   Chennai - 600 034,

3. The Branch Manager,
   Indian Overseas Bank,
   No.32, R.K.Salai, Mylapore,
   Chennai - 600 004.

+1cc to Mr.Sathish Parasaran, Advocate, S.R.No.24091
+1cc to Mr.F.B.Benjamin George, Advocate, S.R.No.23565
+1cc to Mr.T.Pramod Kumar Chopda, Advocate, S.R.No.23677

W.P.No.8801 of 2016

KGK(CO)
CA(28/04/2016)