BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.08.2016

Coram

THE HON'BLE MR.JUSTICE T.RAJA

Writ Petition (MD)No.16001 of 2016
and
W.M.P.(MD).No.11706 of 2016

Mr.Ravikumar Dhandania . . . Petitioner

-Vs-

1.The Chief Commissioner of Income Tax,
No.44, Williams Road, Cantonment,
Tiruchirapalli-01.

2.The Income Tax Officer,
Ward-1 (4), Salem. . . . Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to notice bearing No.ARREAR/ ACGPD9374E/ W-1(4)/ SLM/1 dated 02.08.2016 for the AY 2007-08 and quash the same as illegal and to direct the first respondent to take up the waiver petition on out of turn basis.

For petitioner :Mr.V.S.Jayakumar
For respondents :Mr.R.Krishnamoorthy

ORDER

Aggrieved by the impugned proceedings issued by the Income Tax Officer, Ward-1 (4), Salem in No.ARREAR/ ACGPD9374E/ W-1(4)/ SLM/1 dated 02.08.2016, directing the petitioner to pay a sum of Rs.1,24,85,280/-, the present writ petition has been filed.

2.The learned counsel for the petitioner takes a stand that when there was an original assessment order passed against the petitioner on 30.01.2015 for payment of tax with interest, the petitioner has admittedly paid the tax amount of Rs.1,07,63,080/-. However, the balance amount of Rs.1,24,85,280/- is relating to interest only. Since the petitioner has shown taxable income and paid tax thereon, he is entitled to get the benefit of waiver. Therefore, he moved an application on 06.04.2015 before the first respondent/Chief Commissioner of Income Tax, Tiruchirapalli. But, till date, his application has not yet been considered by the first respondent. He also submits that no one is appointed in the post of Chief Commissioner of Income Tax, Tiruchirapalli, as a result, his application is kept unattended. In the meanwhile, the impugned order has been passed. Further, according to him, if a direction is given to the respondent to consider the petitioner's application and if the post of Chief Commissioner of Income Tax, Tiruchirapalli is filled up, no prejudice would be caused.

3.Mr.Krishnamoorthy, learned Standing Counsel appearing for the respondents would submit that the contention now made by the petitioner that there was no one in the post of the Chief Commissioner of Income Tax, Tiruchirapalli is wholly misconceived and a senior most officer has been given in-charge. Therefore, there is no difficulty in considering the petitioner's application dated 06.04.2015 on merits and in accordance with law. But, he would further submit that a reasonable time can be granted.

4.Considering the fact that original assessment order was passed on 30.01.2015 and in compliance of the same, the petitioner has already paid the tax and moved an application on 06.04.2015, this Court, in the interest of justice of both parties, directs the Officer, who is given full charge of the Chief Commissioner to Income Tax, to consider the application filed by the petitioner, on 06.04.2015, on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. Till then, the impugned order shall be kept in abeyance.

5.With the above direction, the writ petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

To

1.The Chief Commissioner of Income Tax,
No.44, Williams Road, Cantonment,
Tiruchirapalli-01.

2.The Income Tax Officer,
Ward-1 (4), Salem.

+1cc to Mr.M.Karthikeya Venkatachalapathy, Advocate SR.No.47567
+1cc to Mr.R.Krishnamoorthy, Advocate SR.No.47648

VS
sm:PV:14.9.2016:2P/5C

W.P.(md).NO.16001 of 2016
26.08.2016