BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD)Nos.22092 & 22094 of 2016

N.Rajendran ... Petitioner in WP(MD)No.22092/2016

N.Karthikeyan ... Petitioner in WP(MD)No.22094/2016

Vs.

1.The Commissioner of Income Tax,
(Appeals III), Madurai.

2.The Income Tax Officer,
Non-corporate Ward - 3(2),
V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai - 625 002.
... Respondents in WP(MD)No.22092/2016

3.The Income Tax Officer,
Non-corporate Ward - 2(3),
V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai - 625 002.
... Respondents in WP(MD)No.22094/2016

Petitions filed under Article 226 of the Constitution of India, praying for issue a Writ of mandamus directing the first Respondent to dispose of the Appeal dated 25.04.2016 relating to order bearing Nos.PAN.ABMPR4139C dated 30.03.2016 and PAN.ADWPK2255J dated 31.03.2016 passed by the second Respondent and to dispose of the Appeals on being taken on file after numbering within the time frame.

For Petitioner : Mr.H.Nazurruddin
(both Petitions)

For Respondents : Mr.R.Krishnamoorthy
(both Petitions)

COMMON ORDER

These Writ of Mandamus have been filed, seeking a direction to the first respondent to dispose of the Appeals dated 25.04.2016.

2.Heard the learned counsel for the petitioners and the learned counsel, who takes notice for the respondents. By consent, the writ petitions itself are taken up for final disposal at the stage of admission.

3.The petitioners are the assessees on the file of the second respondent. Return of income for the year 2013 - 2014 were filed on 31.07.2013 and 29.07.2013 respectively. The second respondent issued notices under Section 143(2) of the Income Tax Act, 1961 in respect of return of income, for which, replies were filed by the petitioners. Despite the reply filed by the petitioners, the second respondent has passed assessment orders on 30.03.2016 and 31.03.2016, calling upon the petitioners to pay the amount, demanded therein. Against which, Appeals dated 25.04.2016 were filed before the first respondent, which are not yet numbered. Seeking a direction to dispose of the Appeals, these Writ petitions have been filed.

4. The learned counsel for the respondents submitted that the appeals are not yet number and therefore, question of disposal does not arise for consideration.

5. It is represented by the learned counsel for the petitioners that there are vacancies in the post of Appellate Authorities in the Tax Division and three divisions are looked after by only one authority and therefore, there is an enormous delay in getting appeals numbered. It is further represented that though the appeals were filed as early as on 25.04.2016, they were neither returned nor numbered so far and therefore, there must be a direction from this Court to dispose of the Appeals and till such time, stay of all further proceedings may be granted.

6. When this Court pointed out that the petitioners have to approach the Appellate Authority once appeals are filed, it was submitted by the learned counsel for the petitioners that since the appeals have not yet been numbered, it is impossible for the petitioners to approach the Appellate Authority and these facts are not disputed by other side.

7. In view of the above stated position, the 2nd respondent is directed not to enforce the order till the matter is finally decided by the Appellate Authority. Once appeals are filed and numbered, the same shall be disposed of within a period of four months from the date on which the appeals are numbered.

With the above direction, these writ petitions are disposed of. No costs.

Sd/
Assistant Registrar(W)

/TRUE COPY/

Sub Assistant Registrar

To:

1.The Commissioner of Income Tax,
(Appeals III), Madurai.

2.The Income Tax Officer,
Non-Corporate Ward-3(2),
V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai-625 002.

3. The Income Tax Officer,
Non-Corporate Ward-2(3),
V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai-625 002.

+2CC to Mr.R.Krishnamoorthy, Advocate Sr.70586,70587)
+2CC to Mr.Babu Rajendran, Advocate Sr.70457,70458)

mj/ar
AM/EM/MPA/27.12.2016/3P/7C

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