THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.6377 OF 2016

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri K.Vasantkumar, learned counsel for the petitioner and Sri J.V.Prasad, learned Senior Standing Counsel for Income Tax and, with their consent, the Writ Petition is disposed of at the stage of admission.

Sri Bhramaramba Mallikarjunaswamy Vari Devasthanam, Srisailam has invoked the jurisdiction of this Court questioning the inaction of the Director General of Income Tax (Exemptions) in not passing any orders on their petition dated 30.09.2014 whereby they sought stay of collection of the disputed tax pending disposal of the appeals before the Commissioner of Income Tax (Appeals), Kurnool which were preferred against the order of re-assessment dated 28.03.2014, for the assessment year 2005-06.

Sri K.Vasantkumar, learned counsel for the petitioner, would draw attention of this Court to the guidelines issued by the Central Board of Direct Tax in Instruction No.1914 F.No.404/72/93 ITCC dated 02.12.1993 from CBDT, more particularly to clause B thereof, which relates to stay petitions. Clause B (ii) stipulates that, where stay petitions are made to the authorities higher than the Assessing Officer (DC/CIT/CC), it is the responsibility of the higher authorities to dispose of the petitions without any delay, and in any event within two weeks of the receipt of the petitions and such a decision should be communicated to the assessee and the Assessing Officer immediately.

The submission of Sri K.Vasantkumar, learned counsel for the petitioner, is that, while the petitioner had submitted a petition to the Director General of Income Tax (Exemptions) who is an officer in the cadre of a Chief Commissioner of Income Tax, the said application has not been disposed of till date, though nearly one and half years has elapsed since then. While there is no specific provision in the Income Tax Act, other than Section 220 (6) of the Act, which confers power to grant stay pending disposal of the appeal by the Commissioner of Income Tax (Appeals), it is wholly unnecessary for us to examine whether or not the Director General of Income Tax (Exemptions) can exercise the power to grant stay pending disposal of the appeal, as both Sri K.Vasantkumar, learned counsel for the petitioner and Sri J.V.Prasad, learned Senior Standing Counsel for Income Tax, would agree that, in terms of the CBDT guidelines dated 02.12.1993, the Director General of Income Tax (Exemptions) can entertain stay petitions, seeking stay of collection of the disputed tax pending disposal of the appeal.

Instead of keeping pending the Writ Petition on the file of this Court, we consider it appropriate to dispose of this Writ Petition directing the third respondent to consider the application filed by the petitioner for grant of stay of collection of the disputed tax pending disposal of the appeal by the Commissioner of Income Tax (Appeals), Kurnool, at the earliest, and in any event not later than three (3) weeks from the date of receipt of a copy of this order. The petitioner is permitted to communicate a copy of this order to the third respondent.

The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

1st March 2016

Note: Issue CC tomorrow
B/O
RRB