In the High Court of Judicature at Madras

Dated: 08.03.2017
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The Honourable **Mr.JUSTICE K.RAVICHANDRABAABU**

W.P.No.5649 of 2017
and
W.M.P.No.6032 and 6143 of 2017

1 Smt.G.Florence Jasmine [PETITIONER]

Vs

1 The Income Tax Officer,
Non Corporate Ward 5(2),
63, Race Course Road,
Coimbatore 641 018.

2 The Commissioner of Income Tax (Appeals)-3,
Coimbatore Income Tax Office,
Room No.811, 8th Floor, No.63,
Race Course Road, Coimbatore 641 018.

3 The Branch Manager,
Indian Overseas Bank,
Thirumalayam Palayam Branch,
Coimbatore 641 105.

4 The Branch Manager,
Tamilnadu Mercantile Bank Ltd.,
Podanur Branch,,
Vellalore Main Road, Podanur,
Coimbatore 641 023.

5 The Branch Manager,
Axis Bank Ltd., Avinashi Road Branch ,
Coimbatore 641 037. [RESPONDENTS]

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for records in AAGPF2956C/NCW 5(2)/2016-17CBE dated 9.2.2017 issued by the 1st respondent to respondents 3 to 5 herein and quash the same and further direct the 1st respondent not to initiate any further recovery action pursuant to assessment order dated 30.03.2016 in PAN AAGPF2956C in respect of Assessment year 2008-09.

For Petitioner : Mr.G.Baskar

For Respondents : Mr.T.Pramod Kumar Chopdar for R1&R2

O R D E R

Mr.T.Pramod Kumar Chopdar, learned Standing counsel takes notice for the respondents 1 and 2. Since this writ petition is disposed of, without affecting the interest of the respondents 3 to 5, notice to them is dispensed with.

2.The petitioner is aggrieved against the proceeding issued by the first respondent to the respondents 3 to 5 attaching the saving Bank accounts of the petitioner in the respective banks. The petitioner further sought for direction to the first respondent not to initiate any further recovery action in pursuant to the assessment order dated 01.03.2016 in respect of Assessment year 2008-2009.

3.Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents 1 and 2.

4.An order of assessment in respect of Assessment Year 2008-2009 dated 30.03.2016 was issued against the petitioner. Aggrieved against the same, the petitioner preferred an appeal before the appellate authority viz., the second respondent herein. When the petitioner wanted the stay of further proceedings in pursuant to the order of assessment through their letter dated 25.01.2017, the Assessing Authority by proceedings dated 30.01.2017, directed the petitioner to pay 15% of the total demand payable. It is contended by the petitioner that even such demand is not valid, by relying upon circulars.

5.This Court, at this stage, is not inclined to go into all these rival contentions, as the petitioner has already filed an appeal before the appellate authority and the same is still pending. Moreover, it is stated by the learned counsel for the petitioner that a stay petition is filed before the second respondent/the Appellate Authority on 03.03.2017, in pursuant to the order passed by the Assessing Authority on 30.01.2017. Therefore, it is for the Appellate Authority to

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consider the said stay petition and pass orders on the same on merits and in accordance with law. It is once again made clear that this court is not expressing any view on the claim made by the petitioner on the merits of the matter, as it is for the Appellate Authority to consider and decide the same. Therefore, the writ petition is disposed of only with a direction to the second respondent to dispose of the stay petition dated 03.03.2017 within a period of two weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petitions are closed.

08.03.2017

Note:Issue copy by 09.03.2017.
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To

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