IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12892 of 2017
and
WMP.No.13757 of 2017

T.K.Rajalakshmi ... Petitioner

Vs

1.The Deputy Commissioner of Income Tax,
Non-Corporate Circle -2,
Room No.320, Wanaparthy Block,
3rd Floor, 121, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034.

2.The Principal Commissioner Income Tax -I,
121, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent impugned order made under Section 271(1)(C) of the Income Tax Act, 1961 in PAN: ADQPR6875H / AY 2013-14, dated 05.05.2017 and quash the same.

For Petitioner : Mr.V.T.Gopalan, SC for M/s.S.Sathiaseelan

For Respondents : Mrs.Hema Muralikrishna

ORDER

By consent of the learned counsel on either side, the main writ petition itself is taken up for final disposal.

2. Challenging the order dated 05.05.2017 passed by the respondent under Section 271(1)(C) of the Income Tax Act, 1961, for the Assessment Year 2013-14, the petitioner has filed the present writ petition.

3. Mr.V.T.Gopalan, learned Senior counsel appearing for the petitioner submitted that though the petitioner has raised very many grounds in this writ petition, challenging the order of

assessment touching upon the merits of the matter, the petitioner, however, is willing to go before the Appellate Authority and file a statutory appeal and canvass all the points raised before this Court. Therefore, he submitted that the petitioner may be given liberty to file such appeal before the Appellate Authority challenging the order of assessment. He also pointed out that this writ petition challenging the assessment order, was filed within the prescribed time limit for filing such an appeal.

4. Mrs.Hema Muralikrishna, learned standing Counsel appearing for the respondents submitted that the petitioner can file such appeal provided, she is filed within the period of limitation.

5. Considering the submissions made on either side and also taking note of the facts that the factual contentions raised in this writ petition are necessarily to be gone into and decided by the appellate forum, which is undoubtedly a fact finding forum as well and the present writ petition is filed well within the time of limitation for filing such appeal, this Court is of the view that the petitioner can be given liberty to file such appeal before the Appellate Authority.

6. Accordingly, this writ petition is disposed of by granting liberty to the petitioner to file such appeal within a period of three weeks from the date of receipt of a copy of this order. On filing of such appeal, the Appellate Authority shall consider the same on its own merits and in accordance with law without reference to the period of limitation. The petitioner is also at liberty to move application for interim stay before the Appellate Authority along with the appeal. Till an order is passed in the stay petition, preferably within a period of three weeks, no recovery proceedings shall be initiated against the petitioner by the respondents. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Income Tax,
Non-Corporate Circle -2,
Room No.320, Wanaparthy Block,
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Nungambakkam,
Chennai – 600 034.

2.The Principal Commissioner Income Tax -I,
121, Nungambakkam High Road,
Nungambakkam,
Chennai – 600 034.

+1cc to Mr.S. Sathiaseelan, Advocate, S.R.No.37659
+1cc to Mrs. Hemamuralikrishnan, Advocate, S.R.No.37594

GJ(CO)
Eu 19.05.17

W.P.No.12892 of 2017