IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.22643 to 22646 of 2017
and
W.M.P.Nos.23755 to 23759 of 2017

S.Uma Shankar ... Petitioner in W.P.Nos.22643 & 22644/17

S.Karthikeyan ... Petitioner in W.P.Nos.22645 & 22646/17

Vs.

1. The Commissioner of Income Tax (Appeals)-18,
   121, Mahatma Gandhi Road,
   Nungambakkam, Chennai - 34.

2. The Deputy Commissioner of Income Tax,
   Central Circle-III (i/c),
   Coimbatore.

3. The Assistant Commissioner of Income Tax,
   Central Circle-III,
   63, Race Course Road,
   Coimbatore.

... Respondent in all WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records of the third respondent in AAFPU0364C/CC-3/17-18/CBE, AACHP1597H/CC-3/17-18/CBE, AEEPK4137L/CC-3/17-18/CBE and AEEPK4137L/CC-3/17-18/CBE respectively, and quash the proceedings dated 16.05.2017 passed therein.

For Petitioners : Mr.B.Raveendran
For Respondents : Mr.A.N.R.Jagaprathap, standing counsel

COMMON ORDER

Heard Mr.B.Raveendran, learned counsel for the petitioners and Mr.A.N.R.Jagaprathap, learned standing counsel accepting notice on behalf of the respondents, and with the consent of either side, the writ petitions itself are taken up for final disposal.

2. The petitioners have filed these writ petitions challenging the notices dated 16.05.2017 issued by the third respondent under Section 226(3) of the Income Tax Act, 1961. By way of impugned notices, the third respondent has directed the petitioners to deposit the entire tax as per the assessment orders and produce proof of such payment, failing which, the petitioners would be treated as assessees in default. As against the order of assessment dated 31.03.2016, the petitioners have preferred an appeal to the first respondent/the Commissioner of Income Tax (Appeals), Chennai, vide appeal petition dated 25.04.2016, along with a petition for stay of demand and this petition is now pending consideration before the first respondent. The petitioners brought to the notice of the third respondent Assessing Officer vide representation dated 14.03.2017 about the pendency of the stay petition and requested to keep the matter in abeyance. However, the third respondent has issued impugned notices dated 16.05.2017 under Section 226 (3) of the Income Tax Act, 1961.

3. Thus, considering the facts of the case, it will be appropriate for the first respondent to pass order on the petition for stay of demand as the same has been presented on 25.04.2016. In the meantime, if the petitioners are compelled to pay the tax as quantified in the order of assessment, the petition for stay of demand itself would become infructuous. Therefore, there will be a direction to the first respondent to consider the petitioners' petition for stay of demand dated 25.04.2016 and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. Till such time, the impugned notices shall be kept in abeyance.

4. In fine, for the reasons stated above, the writ petitions are disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner of Income Tax (Appeals)-18,
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+4ccs to Mr.B.Raveenddran, Advocate Sr. 60926
+1cc to Mr.A.P.Srinivas, Advocate Sr. 61781

W.P.Nos.22643 to 22646 of 2017
and
W.M.P.Nos.23755 to 23759 of 2017

SK(CO)
VR(05/09/2017)