In the High Court of Judicature at Madras

Dated : 20.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.33319 of 2017 & WMP.No.36761 of 2017

Asia Pacific International,
Tirupur. ...Petitioner

Vs

1.The Tax Recovery Officer, Tirupur
Range, Tirupur-2.

2.The Commissioner of Income Tax
(Appeals)-3, Coimbatore.

3.The Deputy Commissioner of
Income Tax, Circle-1, Tirupur. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the III respondent PAN.No.AAEFA9605K dt.09.01.2017 not to enforce the arrears of demand pending disposal of the rectification petition filed before the second respondent.

For Petitioner : Mr.V.S.Jayakumar
For Respondent : Mr.A.N.R.Jayapratap, JSC

ORDER

Mr.A.N.R.Jayapratap, learned Junior Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner seeks a direction to the respondents not to enforce the arrears of demand pending disposal of the rectification petition filed before the second respondent.

3. The learned counsel for the petitioner would submit that the petitioner would be satisfied if a direction is issued to the second respondent to consider the rectification petition dated 11.12.2017 purported to have been filed under Section 154 of the Income Tax Act, 1961. The contention raised in the said rectification petition is that one of the grounds raised before the Commissioner of Income Tax (Appeals) namely ground No.3 has not been answered in the order dated 19.11.2015.

4. It is pointed out by the learned Junior Standing Counsel for the Revenue that the petitioner filed an appeal before the

Income Tax Appellate Tribunal challenging the said order and the said appeal was dismissed on the ground that the petitioner has not shown sufficient cause for condonation of delay of 408 days. Therefore, it is further pointed out that it is doubtful as to whether the second respondent can exercise jurisdiction under Section 154 of the said Act.

5. Be that as it may, since a petition has been filed by the petitioner and has been received by the office of the second respondent on 11.12.2017, it would be appropriate for the second respondent to pass an order on merits and in accordance with law. At this stage, this Court does not want to express any opinion as to the manner, in which, the second respondent should consider such a rectification petition and he is free to consider the same in accordance with law.

6. In the light of the above, the writ petition is disposed of with a direction to the second respondent to consider the petitioner's rectification petition dated 11.12.2017, purported to have been filed under Section 154 of the said Act, on merits and pass appropriate orders and in accordance with law, after affording an opportunity of personal hearing to the authorized representative of the petitioner as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected WMP is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Tax Recovery Officer, Tirupur Range, Tirupur-2.
2.The Commissioner of Income Tax (Appeals)-3, Coimbatore.
3.The Deputy Commissioner of Income Tax, Circle-1, Tirupur.

+1cc to Mr.V.S.Jayakumar, Advocate SR.No.90769

sm:29.1.2018

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WMP.No.36761 of 2017