IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.33759 of 2017
and
W.M.P.No.37402 of 2017

M/s.Sri Krishna Smelters (P) Ltd.,
rep. By Managing Director,
No.77-B, Old Edappady Road,
Sankary, Salem – 637 301. ... Petitioner

Vs.

1.Tax Recovery Officer – Salem
Room No.310, III Floor,
No.3, Gandhi Road,
Salem – 636 007.

2.Deputy Commissioner of Income Tax,
Circle-1, Salem. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent herein in Proceedings No.TR No.110/2017-18 dated 22.11.2017 and quash the notice of demand dated 22.11.2017 in respect of AY 2007-08 to 2012-13 passed therein by the 1st respondent and further direct the 1st respondent not take any recovery action u/s 222 to 232 of the Income Tax Act, 1961, against the petitioner herein.

For Petitioner : Mr.R.L.Ramani
Senior Counsel
For Mr.B.Raveendran

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

Heard Mr.R.L.Ramani, learned Senior Counsel for Mr.B.Raveendran, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice on behalf of the respondents. With the consent on either side, the writ petition is taken up for final disposal.

2.The petitioner is aggrieved by a notice issued by the 1st respondent dated 22.11.2017 informing the petitioner that they have to remit 20% of the arrears as demanded to be entitled for an order of stay, failing which, recovery proceedings will be initiated in accordance with the provisions of Section 222 to Section 232 of the Income Tax Act, 1961.

3.The learned Senior Counsel for the petitioner submits that on account of the financial condition of the company and that the petitioner has challenged the Order-in-Original dated 10.01.2014 passed by the Commissioner of Central Excise, Salem before the High Court, by filing W.P.No.33787 of 2017 prays that the petitioner may be granted liberty to approach the Commissioner of Income Tax (Appeals), before whom the appeal petition challenging the assessment order is pending.

4.The request made by the learned Senior Counsel for the petitioner appears to be reasonable and there is no much opposition by the Revenue on the said aspect.

5.In the light of the above, the Writ Petition is disposed of, by giving liberty to the petitioner to file an application for stay before the Commissioner of Income Tax (Appeals) and such application shall be filed within a period of three weeks from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

22.12.2017

Speaking / Non Speaking Order

Index : Yes/No

Internet : Yes/No

Sgl

To

1.Tax Recovery Officer – Salem
Room No.310, III Floor,
No.3, Gandhi Road,
Salem – 636 007.

2.Deputy Commissioner of Income Tax,
Circle-1, Salem.

T.S.SIVAGNANAM, J.

Sgl

W.P.No.33759 of 2017

22.12.2017