

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.30586 & 30587 of 2004 &
W.P.M.P.No.37067 of 2004

N.S.P.Knitting Mills,
Rep. by its Partner, G.Seniiappan,
9-A, MGR Nagar, P.N.Road,
Tirupur - 641 602. ... Petitioner

in both WPs.

Vs.

1. The Commissioner of Income Tax-III,
63, Race Course Road,
Coimbatore - 641 018.
2. The Commissioner of Income
Tax (Appeals) II, 63,
Race Course Road,
Coimbatore - 641 018.
3. The Income Tax Officer,
Ward I(3), Tirupur.
4. The Assistant Commissioner of
Income Tax, Circle-I, Tirupur.

... Respondents

in both WPs.

Prayer in W.P.No.30586 of 2004 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in C.No.317(7)/04-05/CIT-III/CBE quash the order dated 06.10.2004 as well as the consequential notice dated 13.10.2004 issued by the fourth respondent under Section 226(3) of the Income Tax Act, 1961 and forbearing the fourth respondent from recovering the tax pursuant to the assessment order dated 31.03.2004 passed by the third respondent for the assessment year 2001-2002 till disposal of the petitioner's appeal dated 06.05.2004 pending on the file of the second respondent.

Prayer in W.P.No.30587 of 2004 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first

respondent in C.No.317(5)/04-05/CIT-III/CBE dated 06.10.2004 quash the same and forbearing the respondents 3 and 4 from recovering the tax pursuant to the assessment order dated 31.03.2004 passed by the third respondent for the assessment years 1998-99 till disposal of the petitioner's appeal dated 19.06.2004 pending on the file of the second respondent.

For Petitioner : Mr.R.Asokan

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel &
Mr.A.N.R.Jayaprathap

C O M M O N O R D E R

The petitioner has filed these writ petitions challenging a communication dated 06.10.2004 sent by the first respondent, the Assessing Officer of the petitioner stating that no stay for collection of tax can be granted for the petitioner's case, pending disposal of the appeal by the Commissioner of Income Tax (Appeals) II.

2.The Court having been prima facie satisfied that the impugned order is erroneous, admitted the writ petition and granted an order of interim suspension. The order of interim suspension is in force till date. It is not clear as to whether the appeal has already been disposed of by the Commissioner. However, this Court does not propose to keep the writ petition pending any longer and the writ petition can be disposed of with the following the direction:

"Accordingly, there will be an order of interim suspension as granted by this Court till the disposal of the appeal by the Commissioner of Income Tax (Appeals)-II, Coimbatore, the second respondent, if the appeal has not yet been disposed of. In the event the appeal has already been disposed of, it is open to the parties to workout their right in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed".

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

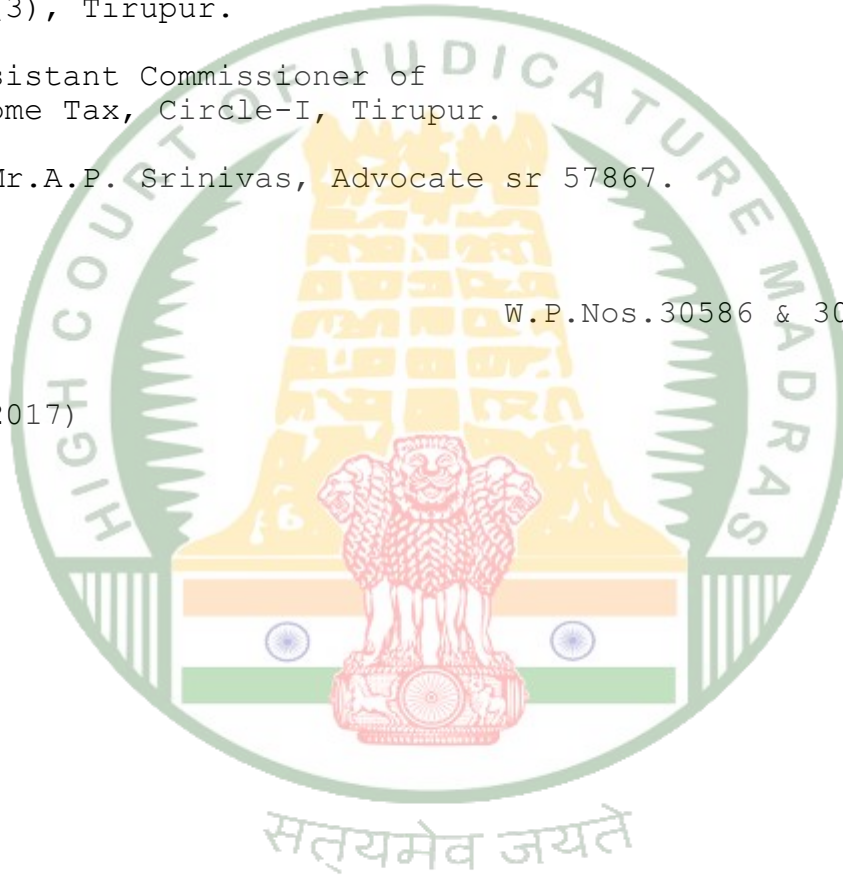
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To

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Tax (Appeals) II, 63,
Race Course Road,
Coimbatore - 641 018.
 3. The Income Tax Officer,
Ward I(3), Tirupur.
 4. The Assistant Commissioner of
Income Tax, Circle-I, Tirupur.
- +1 CC to Mr.A.P. Srinivas, Advocate sr 57867.

W.P.Nos.30586 & 30587 of 2004

SJ(CO)
sp(05/09/2017)



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