IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.04.2017
CORAM

THE HONOURABLE Mr. JUSTICE K. RAVICHANDRABAABU

W.P.No. 43740 & 43741 of 2016
and W.P.No.1575 of 2017
and
W.M.P.Nos.37545 and 37546 of 2017
and W.M.P.No.1521 of 2017

W.P.No.43740 of 2016

T.K. Rajalakshmi

...Petitioner

Versus

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

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for the records of 1st respondent in PAN: ADQPR6875H for the AY 2013-2014, dated 16.11.2016 and quash the same.

W.P.No.43741 of 2016

T. K. Krishnaswamy

...Petitioner

Versus

1. Income Tax Officer,
Non-Corporate Ward-1 (4),
Nungambakkam,
Chennai - 600 034.

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

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for the records of 1st respondent in PAN: AHSPK3783H for the AY 2013-2014, dated 16.11.2016 and quash the same.

W.P.No.1575 of 2017

T.K. Rajalakshmi ...Petitioner

Versus

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.

3. The Tax Recovery Officer,
O/o. The Tax Recovery Officer - 1,
Room No. 327A, 3rd Floor,
New Block, 121 M.G. Road,
Chennai - 600 034.
...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for the records of 3rd respondent proceedings in T.R.No. 981/TRO-1/2016-17 dated 16.01.2017 and quash the same.

For Petitioner : Mr. V.T. Gopalan, Senior counsel,
for
Mr. S. Ashok Kumar

For Respondents : Mr. T. Ravikumar
Standing Counsel for Income Tax.

COMMON ORDER

W.P.Nos.43740 and 43741 of 2016 are filed by the petitioners challenging the order of assessment in respect of the assessment year 2013-2014. W.P.No.1575 of 2017 is filed by the same petitioner in W.P.No.43740 of 2016 challenging the order of attachment dated 16.01.2017.

2. Mr.V.T.Gopalan, learned Senior counsel appearing for the petitioners in all these writ petitions submitted that though the petitioners have raised very many grounds in these writ petitions, challenging the order of assessment and attachment touching upon the merits of the matter, the petitioners, however, are 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 petitioners may be given liberty to file such appeal before the Appellate Authority challenging the order of assessment. He also pointed out that these writ petitions challenging the assessment order were filed within the prescribed time limit for filing such an appeal.

3. Mr.Ravi Kumar, learned Senior Standing Counsel appearing for the respondent Department submitted that the petitioners can file such appeal provided, they are filed within the period of limitation.

4. Considering the above stated facts and circumstances and the submissions made by the learned Senior Counsel appearing for the petitioners and the learned counsel appearing for the respondent Department and considering the fact that the factual contentions raised in these writ petitions are necessarily to be gone into and decided by the appellate forum, which is undoubtedly a fact finding forum as well, considering the further fact that the present writ petitions are filed before this Court well within the time of limitation for filing such appeal, I am of the view that the petitioners can be given liberty to file such appeal before the Appellate Authority so that all the factual aspects can be gone into and decided.

5. Accordingly, W.P.Nos.43740 and 43741 of 2016 are disposed of by granting liberty to the petitioners to file such

appeal within a period of three weeks from the date of receipt of a copy of this order and the Appellate Authority shall consider the same on its own merits and in accordance with law without reference to the period of limitation. The petitioners are 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, no coercive steps shall be taken against the petitioners by the respondents.

6. In view of the order passed in the above two writ petitions, no further order is required in W.P.No.1575 of 2017. Accordingly, W.P.No.1575 of 2017 is closed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

vsi

To

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.

3. The Tax Recovery Officer,
O/o. The Tax Recovery Officer - 1,
Room No. 327A, 3rd Floor,
New Block, 121 M.G. Road,
Chennai - 600 034.

4.The Income Tax Officer
Non-Corporate Board-1(4)
Nungambakkam
Chennai-600 034

+1 cc to Mr.T.Ravikumar Advocate sr 21779
+3 cc to Mr.S.Ashok kumar Advocate sr 21756
+2 cc to Mr.T.Ravikumar Advocate sr 21780, 21781

W.P.No. 43740 and 43741 of 2016
and
W.P.No. 1575 of 2017

aa21/04/2017