

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.36078 of 2004
and
W.P.M.P.No.43402 of 2004

K.Prabhu

...Petitioner

Vs.

1. The Deputy Commissioner of Income Tax,
Circle II, Cuddalore.

2. The Tax Recovery Officer,
Cuddalore.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent herein not to initiate any proceedings for recovery of taxes, when the petitioner's Appeal is pending on the files of the Appellate Authorities in view of the circular instructions issued by the Central Board of Direct Taxes, in instructions No.96, dated 21.08.1969.

For Petitioner : Mr.J.Prasanna Kumar

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

ORDER

Heard Mr.J.Prasanna Kumar, the learned counsel appearing for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondent.

2. The petitioner has filed this Writ Petition, seeking for issuance of a writ of mandamus, directing the first respondent not to initiate any recovery proceedings against him, when the Appeal Petition filed by him is pending on the file of the Appellate Authority.

3. The learned counsel appearing for the petitioner and the learned Senior Standing Counsel for the respondent/Revenue

are not able to readily report before this Court, as to whether the Appeal Petition has been disposed of by the Appellate Authority.

4. It is seen that, at the time, when the Writ Petition was admitted, i.e., on 08.12.2004, interim stay was granted for a period of four weeks. However, it appears that the interim stay was not extended thereafter. In the event, if the petitioner's Appeal Petition is still pending, the recovery proceedings shall remain stayed till the disposal of the Appeal Petition by the Appellate Authority. On the other hand, if the Appeal Petition has already been disposed of by the Appellate Authority, no further orders are required to be passed in this Writ Petition and the Writ Petition as well as its connected Miscellaneous Petition shall stand automatically closed without further reference to this Court.

5. With the above observations, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sd

To

1. The Deputy Commissioner of Income Tax,
Circle II, Cuddalore.
2. The Tax Recovery Officer,
Cuddalore.

+1cc to M/s.S.Rajasekar, Advocate, S.R.No.50744

+1cc to M/s.A.P.Srinivas, Advocate, S.R.No.51621

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RR(CO)
CU(16/08/2017)