

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No. 9981 of 2017

ORDER: (*Per VRS,J*)

Aggrieved by a garnishee order passed by the Assessing Officer, the assessee, whose statutory appeal is pending before the Commissioner of Income Tax (Appeals), has come up with the present writ petition.

2. Heard Mr. Shaik Jeelani Basha, learned counsel for the petitioner. Mr. B. Narasimha Sarma, learned senior standing counsel for Income Tax Department, takes notice for the respondents 1 to 3.

3. The short grievance of the petitioner is that during the pendency of their appeal before the CIT (Appeals), they have also filed an application under Section 220 (6) before the 1st respondent-Assessing Officer for a stay. Therefore, the petitioner claims that until the said petition is disposed of one way or the other, the impugned garnishee order should not be given effect to.

4. It is, no doubt, true that the application for stay was moved, only after the garnishee order was issued. Nevertheless, the petitioner certainly has a statutory remedy under Section 220 (6) and no limitation is prescribed for availing the same. Therefore, the

petitioner is entitled to have their application for stay considered and disposed of by the 1st respondent, in accordance with law.

5. Hence, the Writ Petition is disposed of, to the following effect:

- 1) The 1st respondent shall consider the application for stay, dated 15.03.2017, filed by the petitioner on 17.03.2017, and pass orders, in accordance with law, within a period of three (3) weeks.
- 2) Till the 1st respondent passes an order, the impugned garnishee order shall stand suspended.
- 3) After the 1st respondent passes an order, any consequential action shall be taken depending on the same.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

21st March, 2017

Note: Issue C.C. by 22.03.2017.

(b/o)
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