IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.3028 of 2018 and W.M.P. No.3700 of 2018

M/s.V.P.C. & Co.,
rep. by its Partner R.Ramesh .. Petitioner

-vs-

1.The Adjudicating Authority
under the Prohibition of Benami
Property Transactions Act, 1988
Room No.26, 4th Floor,
Jeevan Deep Building,
Parliament Street, New Delhi-110 001.

2.The Assistant Commissioner of
Income Tax (Benami Prohibition)
Initiating Officer, Room No.104,
Income Tax Investigation Wing Building,
1st Floor, 46, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to furnish the petitioner Firm with the certified copy of the proceedings dated 20.12.2017 and 18.01.2018 respectively in R-114/2017 on the file of the first respondent, considering the applications of the petitioner firm made in Entry No.765 dated 17.01.2018 and Entry No.775 dated 19.01.2018 respectively.

For Petitioner	:	Mr.N.Muralikumaran for M/s.MC Gan Law Firm
For Respondents	:	No appearance for R1 Mr.A.P.Srinivas, Senior Standing Counsel for R2

ORDER

The petitioner firm has come to this Court seeking a direction to the first respondent to furnish it a certified copy of the proceedings dated 20.12.2017 and 18.01.2018 in R-114/2017 on the file of the first respondent, considering its applications made in Entry Nos.765 and 775 dated 17.01.2018 and 19.01.2018 respectively.

2.The petitioner is an unregistered Partnership Firm vide a Deed of Partnership dated 09.04.2014. It has been carrying on the business as a dealer in metal scrap which includes Iron, Steel, Copper etc. for the past 14 years. The petitioner Firm has been assessed to Income Tax under PAN No.AAFFV2650Q and the partners of the said Firm has also been assessed to Income Tax under PAN Nos.ACVPR8881H and AMIPK4579J respectively. At the time of demonetisation, the petitioner Firm deposited a sum of Rs.68,71,23,000/-. Out of the said sum, a sum of Rs.48 crores represents the sale proceeds of scrap and Rs.19 crore undisclosed income accumulated over the years in the business of the petitioner Firm. While this is so, a search was conducted in the premises of the petitioner Firm on 17.03.2017 by the Income Tax Department and all the records of the Firm were seized. Subsequently, the Firm was issued with a Show Cause Notice by the second respondent under Section 26(1) of the Prohibition of Benami Property Transactions Act 1988 for adjudication before the first respondent and the Firm also duly appeared before the first respondent and filed its reply dated 16.11.2017. Thereafter, the first respondent issued a Rejoinder to the Reply dated 27.11.2017 and a Sur-Rejoinder dated 30.11.2017 was also filed by the petitioner firm before the first respondent. When the matter was taken up for final hearing on 20.12.2017, at the request of second respondent, the matter was adjourned to 18.01.2018, despite objection made by the petitioner firm and subsequently the matter was adjourned from time to time. However, the petitioner firm made applications for furnishing of the first respondent's proceedings dated 20.12.2017 and 18.01.2018 in R-114/2017 in Entry Nos.765 and 775 dated 17.01.2018 and 19.01.2018. Finding no response, the petitioner firm is before this Court.

3.Learned Senior Standing Counsel for the second respondent, by way of filing a counter affidavit would submit that there is no adverse order passed against the petitioner on 20.12.2017 by the first respondent and this apart, the petitioner is not entitled to get a copy of the proceeding in the light of Section 11 of the Prohibition of Benami Property Transactions Act, 1988 which reads thus:

> *'11.The Adjudicating Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to other provisions of this Act, the Authority shall have powers to regulate own procedure.'*

T.RAJA, J.

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4.But this Court is unable to find any justification to support the submission made by the learned counsel for the second respondent for the reason that when it is an admitted fact that the first respondent has conducted enquiry and in which the petitioner has admittedly taken part, any order or proceeding passed in favour of the petitioner or against him, should be furnished to the petitioner, which has not been done.

5.Therefore, the first respondent is directed to furnish a copy of the proceedings dated 20.12.2017 and 18.01.2018 within a period of one week from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently, connected W.M.P. is closed.

05.07.2018

Speaking/Non speaking order

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To

The Assistant Commissioner of
Income Tax (Benami Prohibition)
Initiating Officer, Room No.104,
Income Tax Investigation Wing Building,
1st Floor, 46, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.