IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.20447 to 20449 of 2018
and
WMP.Nos.24017 to 24022 of 2018

S.Arputharaj .. Petitioner
(in WP.Nos.20447 to 20449 of 2018)

Vs.

1.The Deputy Commissioner of Income tax
Central Circle-I,
Coimbatore.

2.The Tax Recovery Officer
Central-2,
Income Tax Department
Room No.322, 3rd Floor, New No.46,
MG Road, Chennai-34.

3.The Commissioner of Income Tax
Appeals-18, Chennai-34. .. Respondents
(in WP.Nos.20447 to 20449 of 2018)

Writ petition No.20447 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned demand notice in ADJPA9492L/CC-1/CBE/2010-11 dated 09.07.2018 for the assessment year 2010-2011 and consequentially, subsequent notice ADJPA9492L/CC-1/CBE/09-10 to 15-16 issued by the first respondent and quash the same.

Writ petition No.20448 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned demand notice in ADJPA9492L/CC-1/CBE/2009-10 dated 09.07.2018 for the assessment year 2009-2010 and consequentially, subsequent notice ADJPA9492L/CC-1/CBE/09-10 to 15-16 issued by the first respondent and quash the same.

Writ petition No.20449 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned demand notice in ADJPA9492L/CC-1/CBE/2011-12 dated 09.07.2018 for the assessment year 2011-2012 and consequentially, subsequent notice ADJPA9492L/CC-1/CBE/09-10 to 15-16 issued by the first respondent and quash the same.

For Petitioner	:	Mr.T.P.Prabakaran for Mr.N.Sankarasabari (in WP.Nos.20447 to 20449 of 2018)
For Respondents	:	Mr.A.P.Srinivas Senior Standing Counsel (in WP.Nos.20447 to 20449 of 2018)

C O M M O N   O R D E R

Mr.A.P.Srinivas, learned Senior Standing Counsel takes notice for the respondents. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. In all these writ petitions, the petitioner is one and the same. The petitioner is aggrieved against the demand notices dated 09.07.2018 and consequential notice dated 27.07.2018, calling upon the petitioner to pay the tax arrears within 30 days in pursuant to the order passed by the Income Tax Appellate Tribunal, Chennai, in the appeal filed by the petitioner.

3. The learned counsel for the petitioner submitted that when the Tribunal has passed the order on 13.06.2018 and when the petitioner is having time till 13.10.2018 to file further appeal before this Court, issuing the impugned demand notice, in the mean time, and calling upon the petitioner to pay the tax arrears within 30 days, is unjust. He further submitted that when the petitioner had approached this Court earlier, challenging similar demand before filing the appeal before the Tribunal, this Court has entertained the writ petition filed in W.P.No.5462 of 2018 and disposed the same, by directing the Tax Recovery Officer to keep the impugned order therein in abeyance till the period fixed for filing such appeal expires. Therefore, the learned counsel seeks similar relief in the present writ petitions also, pending filing of appeal before this Court.

4. The learned Senior Standing Counsel appearing for the respondents vehemently opposed for granting any interim relief, by contending that the petitioner having lost before the Tribunal in part, is not entitled to any relief, by way of filing the present writ petition, as nothing prevented the petitioner from filing a regular statutory appeal before this

Court challenging the order of Tribunal and seeking interim stay. Therefore, he submitted that this is nothing, but a dilatory tactics adopted by the petitioner, which need not be entertained by this Court.

5. It is true, that this Court has entertained similar writ petition filed by the petitioner and granted interim protection to the petitioner till the time of filing the appeal before the Tribunal. The fact remains that thereafter, the Tribunal has passed the order on 13.06.2018 i.e. nearly two months back. Even till this date, it is not claimed by the petitioner that they have preferred any appeal before this Court. In the absence of any statutory bar against the Department in seeking payment of the tax arrears in pursuant to the order passed by the Tribunal, even during the time, within which, the petitioner can prefer the appeal before this Court, in all fairness, the petitioner should have filed the appeal before this Court and sought for interim relief as sought in this writ petition. However, the petitioner has not chosen to do so, till this date. Therefore, granting one more opportunity to the petitioner does not arise. However, the learned counsel for the petitioner has given an undertaking that the petitioner would file a regular statutory appeal before this Court challenging the order of the Tribunal within a period of two weeks. By recording the said undertaking, this writ petition is disposed of, by directing the respondents to keep the impugned proceedings in abeyance for two weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any view on the merits of the contentions raised by the petitioner as against the impugned demand or the order passed by the Appellate Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

// True Copy//

Sub Assistant Registrar

To

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3.The Commissioner of Income Tax
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+1cc to Mr.Sankara Sabari, Advocate SR.No.54615

SMI/10.08.2018