THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.6022 of 2018
and
W.M.P.Nos.7408 & 7409 of 2018

T.D.Naidu .. Petitioner

vs.

The Tax Recovery Officer,
Office of the Tax Recovery Officer,
Central-2,
Room No.322, 3rd Floor,
New No.46, Mahatma Gandhi Road,
Chennai - 34. ..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the proceedings of the respondent in T.R.C.No.6/cr-2/2014-15 dated 07.03.2018 on the file of the respondent and quash the same.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.ANR.Jayaprathap,
Standing Counsel

O R D E R

This writ petition is filed challenging the proceedings dated 07.03.2018 which is nothing but a show cause notice calling upon the petitioner to pay 20% of the balance demand of Rs.87,58,35,215/- for the Assessment Years 2006-2007 to 2009-10 and 2011-12, 2012-13 which amounts to Rs.17,51,67,043/- and also to show cause why warrant of arrest shall not be issued against the petitioner for the failure of payment of Rs.129,80,93,289/-.

2. A counter affidavit is filed by the respondent disputing the allegations made in the affidavit and also the maintainability of the writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

4. The challenge made in this writ petition is only against the show cause notice as stated supra. It seems that in respect of the assessment years 2006-07 to 2012-13, assessment orders were passed and tax liability was fixed on the petitioner. It is stated that in the appeals filed by the petitioner against such assessment orders, even though a condition stay was granted with a direction to pay 20% of the balance demand, the petitioner did not comply with such condition. Therefore, the present impugned notice was issued on the petitioner.

5. I do not think that the petitioner is entitled to challenge the said notice by filing the present writ petition when admittedly, he has not paid the balance demand as directed by the Appellate Authority. Even otherwise, as against the impugned show cause notice, the petitioner seems to have filed a reply on 12.03.2018 which seems to have been acknowledged by the department on the same day. If that is the case, the petitioner has to work out his remedy before the authority who issued the show cause notice in pursuant to the reply already given on 12.03.2018. Without doing so, filing the writ petition cannot be a proper course of action. Accordingly, the writ petition is dismissed, without expressing any view on the merits of the notice as it is for the petitioner to work out his remedy before the authority who issued such notice. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Tax Recovery Officer,
Office of the Tax Recovery Officer,
Central-2,
Room No.322, 3rd Floor,
New No.46, Mahatma Gandhi Road,
Chennai - 34.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.68518

W.P.No.6022 of 2018

KANCO)
GSP(26/10/2018)