IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5462 of 2018
and
W.M.P.Nos.6739 & 6740 of 2018

S.Arputharaj .... Petitioner

Vs.

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

2. 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

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned demand notice in TR.No.80-86/CR-2/2016-2017 & 29/CR-2/2015-16 dated 02.03.2018, issued by the second respondent and quash the same.

For Petitioner : Mr.T.P.Prabakaran
for Mr.N.Sankarasabari

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

O R D E R

Mr.A.P.Srinivas, learned Standing Counsel takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal.

2. The petitioner is aggrieved against the demand notice dated 02.03.2018 issued by the 2nd respondent calling upon the petitioner to pay the entire demand of Rs.61,34,05,607/- before 12.03.2018, also by indicating that any default in making such payment will result in initiating proceedings under the relevant Rules.

3. Learned counsel appearing for the petitioner, after inviting this Court's attention to the order passed by the CIT Appeals dated 19.02.2018, dismissing the appeal filed by the petitioner, submitted that when the said order itself was served on the petitioner only on 06.03.2018 and the petitioner is having 60 days time for filing further appeal before the Income Tax Appellate Tribunal, the 2nd respondent is not justified in issuing the impugned

demand, that too, granting only 10 days time for the petitioner to make the payment.

4. Learned counsel appearing for the respondents submitted that the impugned demand was made in pursuant to the dismissal of the appeal by the CIT (Appeals). However, he fairly submitted that the petitioner is having 60 days time for filing further appeal before the Income Tax Appellate Tribunal.

5. Considering the fact that the very order passed by the CIT(Appeals) was made on 19.02.2018, which, according to the petitioner, was service on him only on 06.03.2018 and when the relevant statute prescribes and grants 60 days time for filing further appeal before the Income Tax Appellate Tribunal, the 2nd respondent has to keep the impugned order in abeyance till the period fixed for filing such appeal expires. Needless to say that it is for the petitioner to file the appeal and seek for interim order, if any, before the Appellate Tribunal within the prescribed time. If the petitioner fails to produce an interim order of stay granted pending such appeal, before the expiry of the prescribed time for filing such appeal, it is open to the 2nd respondent to implement the order impugned in this writ petition.

K.RAVICHANDRABAABU,J.

vsi

6. With the above observation and directions, the Writ Petition is disposed of, without expressing any view on the merits of the claim made by the petitioner as well as the respondent Department. No costs. Consequently, connected miscellaneous petitions are closed.

12.03.2018

Speaking/Non Speaking
Index :Yes/No
vsi

Note: Issue order copy on 13.03.2018

To

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W.P.No.5462 of 2018