IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.9031 of 2010
and
M.P.No.1 of 2010

M/s.Vira Properties (Madras) Pvt Ltd.,
“Rayala Towers”
158 (781-785) Anna Salai,
Chennai – 600 002.
By its Executive Director
M.R.Pratap ... Petitioner

Vs

Deputy Commissioner of Income Tax,
Company Circle III (4), Aayakar Bhavan,
New Block, IV Floor,
Nungambakkam High Road,
Chennai – 600 034. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his impugned order No.451-V-AABCV5241Q/2008-09 dated 03.03.2010 and to quash the same and to further direct the respondent to refund the sum of Rs.10,78,334/- along with interest as envisaged under the Income Tax Act.

For Petitioner : Mr.George Cheriyan

For Respondent : Mr.Narayanaswamy

ORDER

The relief sought for in this writ petition is to quash the communication dated 03.03.2010 issued by the respondent and consequently direct the respondent to refund a sum of Rs.10,78,334/- along with interest. By the impugned communication, it was informed to the petitioner that after processing the return for the Assessment Year 2008-09, a sum of Rs.10,78,334/- is determined as refundable to them. However, the said refund is adjusted against the arrears of tax for the Assessment Year 2003-04, as per Section 245 of the Income Tax Act.

2. The learned counsel for the petitioner submitted that as against the adjustment of refund for the assessment year 2008-09 against the arrears demanded for the assessment year 2003-04, the petitioner preferred an appeal before the respondent. However, the learned counsel is unable to state the present position of the said appeal.

3. The learned counsel appearing for the respondent is also not in a position to ascertain the present status of the appeal. However, he fairly submitted that the petitioner may be directed to submit a comprehensive representation, with regard to the claim sought in this writ petition and on such submission, the respondent would consider the same, on merits and in accordance with law, within a time frame to be adumbrated by this Court.

4. The said submission made by the learned counsel for the respondent has been conceded by the learned counsel for the petitioner.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the petitioner to file a comprehensive representation before the respondent enclosing all the required documents, within a period of two weeks from the date of receipt of a copy of this order. On such filing, the respondent shall consider the same and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2018

Index: Yes/ No
Speaking order/Non-speaking order
arb/vsi2

To
Deputy Commissioner of Income Tax,
Company Circle III (4), Aayakar Bhavan,
New Block, IV Floor,
Nungambakkam High Road,
Chennai – 600 034.

R.MAHADEVAN, J.

vsi2

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