IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.3886 of 2018 and
W.M.P.No.4761 of 2018

Abdul Lathief Mohammed Arif .. Petitioner

Vs.

1.The Principal Commissioner of Income Tax,
Coimbatore.

2.The Income Tax Officer
(Non Corp.Ward 5(2))
Coimbatore.

3.The Tax Recovery Officer,
Range - 1 & 2 Tirupur and
Range - 5 Coimbatore,
No.121, Adams Building, 60 Feet Road,
Tirupur - 641 602.

4.The Executive Officer/Branch Head/
Branch Manager,
L & T Housing Finance Limited,
I Floor, No.2-8, Dr.N.R.N.Layout,
P.N.Palayam,
Coimbatore - 37. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue Writs of certiorarified mandamus calling for the proceedings dated 19.01.2018 issued by the 3rd respondent and to quash the same with consequential direction to the 1st respondent to consider the Revision Petition filed by the petitioner under Section 264 (3) of the Income Tax Act, 1971 providing an opportunity of being heard to the petitioner.

For Petitioner : Mr.Haja Nazirudeen, Senior Counsel
for Mr.R.Tholgappian

For Respondents: Mr.A.P.Srinivas,
Senior Standing Counsel (R1 to R3)

O R D E R

The petitioner has filed the above Writ Petition to issue writ of certiorarified mandamus calling for the proceedings dated 19.01.2018 issued by the 3rd respondent and to quash the same and to direct the 1st respondent to consider the Revision Petition filed by the petitioner under Section 264 (3) of the Income Tax Act, 1971 providing an opportunity of being heard.

2.Challenging the order dated 21.02.2017 passed by the 2nd respondent holding that the demand is kept in abeyance till the disposal of the Appeal by the CIT (A)-3, Coimbatore, with a rider to the petitioner to pay 15% of the disputed amount of Rs.75,83,010/-, amounting to Rs.11,37,450/-, immediately, even without prescribing any time limit, on 20.11.2017, the petitioner submitted a petition to the 3rd respondent requesting him to defer further course of action till the disposal of the Revision Petition filed under Section 264 of the Income Tax Act, 1971, before the 1st respondent. On 19.01.2018, the 3rd respondent, without taking into consideration the Petition dated 20.11.2017 filed by the petitioner, issued a notice under Section 226(3) of the Act to the 4th respondent directing him not to pay amount to the petitioner on account of alleged arrears of tax to the tune of Rs.81,13,820/-.

3.The learned senior counsel appearing for the petitioner submitted that the 3rd respondent has failed to countenance the pendency of the Appeal on the file of the Commissioner of Income Tax (Appeals) 3, Coimbatore, vis-a-vis, the Revision Petition preferred under Section 264 (3) of the Income Tax Act before the 1st respondent challenging the order dated 21.02.2017 made under Section 220(6) of the IT Act issued by the 2nd respondent. The learned senior counsel appearing for the petitioner submitted that the order passed by the 2nd respondent directing the petitioner to pay 15% of the disputed amount, amounting to Rs.11,37,450/- is very much on the higher side and therefore, the petitioner may be permitted to pay a consolidated sum of Rs.6,00,000/- in three installments of Rs.2,00,000/- each, payable in every three weeks.

4.Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the respondents 1 to 3 submitted that the order passed by the 2nd respondent is just and proper.

5.Having regard to the submissions made by the learned counsel on either side, since the learned senior counsel appearing for the petitioner has stated that the petitioner is not in a position to make the payment, it would be appropriate to direct the petitioner to make the payment of Rs.6,00,000/- instead of Rs.11,37,450/-. The petitioner is permitted to make the payment of Rs.6,00,000/- in three installments as follows:

(i)The 1st installment of Rs.2,00,000/- (Rupees Two Lakhs only) shall be paid by the petitioner on or before 28.03.2018;

(ii)The 2nd installment of Rs.2,00,000/- (Rupees Two Lakhs only) shall be paid by the petitioner within three weeks thereafter; and

(iii) The last and 3rd installment of Rs.2,00,000/- (Rupees Two Lakhs only) shall be paid by the petitioner within four weeks from the date of payment of the 2nd installment.

The order passed by the 2nd respondent is modified as stated above. In other aspects, the order of the 2nd respondent shall remain unaltered. The Garnishee Notice issued to the petitioner's employer is kept in abeyance till the disposal of the Appeal.

6.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Commissioner of Income Tax,
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Coimbatore.

3.The Tax Recovery Officer,
Range - 1 & 2 Tirupur and Range - 5 Coimbatore,
No.121, Adams Building, 60 Feet Road,
Tirupur - 641 602.

+ 1 cc to M/s.R.Tholgappian, Advocate Sr.20531
+ 1 cc to M/s. A.P. Srinivas, Advocate Sr.20615

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NRI(CO)
EU(26/03/2018)