IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.11395 of 2017
and W.M.P.No.12355 of 2017

M/s.S.K.M.Egg Products Export (India) Ltd.,
rep by its Managing Director,
SKM Shree Shivkumar,
No.185, Chennimalai Road,
Erode - 638 001. .. Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Circle - 1, No.15, Gandhiji Road,
Erode - 638 001.

2.The Joint Commissioner of Income Tax,
Range - 1, No.15, Gandhiji Road,
Erode - 638 001.

3.The Principal Commissioner of Income Tax-II,
63-A, Race Course Road,
Coimbatore - 641 018. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records in C.No.241/Pr.CIT-2/CBE/2017-18 dated 24.04.2017 issued by the 3rd respondent relating to the assessment year 2009-10 and quash the same and further direct the 1st respondent not to initiate any further recovery or action for recovery pursuant to assessment order dated 31.03.2013 in PAN: AACCS7106G.

For Petitioner : Mr.G.Baskar
For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified mandamus to call for the records in respect of the order dated 24.04.2017 issued by the 3rd respondent relating to the assessment year 2009-10 and to quash the same and further direct the 1st respondent not to initiate any further recovery or action for recovery pursuant to assessment order dated 31.03.2013.

2.The learned counsel appearing for the petitioner submitted that the impugned order dated 24.04.2017 was passed by the 3rd respondent without giving any reasons and therefore, on that ground alone, the impugned order is liable to be set aside.

3.The respondents filed their counter and Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the respondents submitted that the 3rd respondent has rightly rejected the stay petition filed by the petitioner and therefore, there is no impediment in the order passed by the 3rd respondent.

4.However, on a perusal of the impugned order dated 24.04.2017, it could be seen that the 3rd respondent had passed the order without giving any reasons for rejecting the stay petition filed by the petitioner. Therefore, on this ground alone, the impugned order dated 24.04.2017 is liable to be set aside. Accordingly, the impugned order dated 24.04.2017 is set aside and the matter is remanded to the 3rd respondent for fresh consideration. The 3rd respondent is directed to decide the matter afresh, after giving an opportunity of personal hearing to the petitioner and also taking into consideration the case putforth by them and pass orders on merits and in accordance with law.

5.With these observations, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

va
To
1.The Assistant Commissioner of Income Tax,
Circle - 1, No.15, Gandhiji Road, Erode - 638 001.
2.The Joint Commissioner of Income Tax,
Range - 1, No.15, Gandhiji Road, Erode - 638 001.
3.The Principal Commissioner of Income Tax-II,
63-A, Race Course Road,
Coimbatore - 641 018.

+ 1 cc to MR.G. Baskar,Advocate SR.11994
+ 1 cc to Mr. A.P. Srinivas, Advocate Sr.12273

W.P.No.11395 of 2017
and W.M.P.No.12355 of 2017

KS(CO)
FU(28/02/2018)