IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos. 10837 & 10838 of 2018
and
W.M.P.Nos.12781 to 12783 of 2018

M/s.Bharani Pictures Private Limited,
No.57, |Arcot |Road, |Saligramam,
Chennai - 600 093.

..Petitioner in both W.Ps.

Vs.

Assistant Commissioner of Income Tax,
Non Corporate Circle - 20(1)
121, Mahatma Gandhi Road,
Chennai - 600 034.

..Respondent in both W.Ps.

Prayer in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent comprised in its communication, dated 21.03.2018 PAN:AAAFB3611N/ACIT/NCC-20(i) CHN, addressed to the petitioner's banker u/s 226(3) of the Income Tax Act, 1961 and to quash the same as illegal, unjust and ultra vires the Income Tax Act, 1961 and consequently, to direct the respondent to defreeze the petitioner's the Bank Account bearing No.003802000003701 with Indian Overseas Bank, Kodambakkam, Chennai and the Bank Account, bearing Nos.50200001184080 with HDFC Bank Ashok Nagar Branch, Chennai respectively.

For Petitioner in both W.Ps. : Mr.Suhrith Parthasarathy

For Respondent in both W.Ps. : Mr.J.Narayanasamy
Standing Counsel

COMMON ORDER

Heard Mr.Suhrith Parthasarathy, the learned counsel appearing for the petitioner and Mr.J.Narayanasamy, the learned Standing Counsel for the respondent.

2. The petitioner has filed these Writ Petitions, challenging the notices issued by the respondent under Section 226(3) of the Income Tax Act, 1961 (the Act, for brevity), attaching the petitioner's bank accounts for recovery of tax alleged to be payable by the petitioner for the assessment years 2004-05, 2005-06, 2009-10, 2012-13 and 2015-16, being the total sum of Rs.2896067/-.

3. The petitioner's case is that, the impugned attachment notices are wholly unreasonable and perverse, as there are no tax payable by petitioner in respect of aforementioned five assessment years. Therefore, it is submitted that, the respondent could not have invoked the power under Section 226(3) of the Act.

4. When the Writ Petitions came up for hearing on 26.04.2018, the Court directed the learned Standing Counsel for the Revenue to get instructions from the respondent as regards the contention advanced by the petitioner. In fact, during the course of hearing on 26.04.2018, the learned counsel for the petitioner had demonstrated before this Court that the demand amount in the impugned notices is palpably erroneous.

5. Today, when the case is heard, the learned Standing Counsel for the Revenue orally submits that, there are certain discrepancies in the impugned notices and if a representation is given by the petitioner to the respondent, the same will be considered by the respondent and appropriate corrective measures will be taken by the respondent. However, the respondent has not taken a definite stand as regards the contention advanced by the petitioner, though partially admitting that there are discrepancies. However, for the present, this Court does not propose to go into the controversy, as it would suffice to issue direction for a representation to be placed by the assessee before the respondent.

6. In the light of the above, the impugned notices shall remain stayed till a decision is taken by the respondent on the representation to be filed by the petitioner/assessee. The petitioner is directed to file a comprehensive representation, clearly setting out their stand that there are absolutely no arrears payable by them for the aforementioned five assessment years within a period of 15 days from the date of receipt of a

copy of this order. On such representation being placed, the respondent shall afford an opportunity of hearing to the Authorized Representative of the petitioner and pass a speaking order on merits in accordance with law. As observed earlier, the impugned notices shall remain stayed till such orders are passed by the respondent in terms of the above direction.

7. With the above direction, both the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ggi/sd

To

The Assistant Commissioner of Income Tax,
Non Corporate Circle - 20(1)
121, Mahatma Gandhi Road,
Chennai - 600 034.

+2cc to Mr.J.NARAYANASWAMY, Advocate, S.R.No.32328
+2cc to Mr.ARUNKARTHIK MOHAN, Advocate, S.R.No.34496
(04/06/2018)

Writ Petition Nos. 10837 & 10838 of 2018

SSI(CO)
TR(18/05/2018)