IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.9899 of 2018
and
WMP.Nos.11835 & 11836 of 2018

Ravikumar Dhandhania .. Petitioner

vs.

The Income Tax Officer
Ward I(4) Salem,
Room No.306, 3rd Floor,
New Building, No.3, Gandhi Road,
Salem - 636 007. ..Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to quash the impugned notice dated 26.03.2018 bearing Pan No.ACGPD9374E/W-1(4)/SLM under Section 226(3) of the Income Tax Act, 1961 issued by the respondent.

For Petitioner : Mr.R.Lakshmi Ratan

For Respondent : Mr.ANR.Jaya Pratap
standing counsel

O R D E R

The petitioner is aggrieved against attachment of the Bank account made through the impugned proceedings dated 26.03.2018. The petitioner is an Assessee under the respondent. The petitioner filed the return of income for the assessment year 2007-2008 on 05.03.2009, admitting an income of Rs.1,57,410/-. Thereafter, the petitioner filed a revised return along with the tax payable on such revised return since an income of Rs.3,20,00,000/- was said to have been inadvertently omitted to be shown as income, while filing the original return. It is stated that the petitioner had made several payments amounting to Rs.1,07,63,080/- towards self assessment tax, based on the revised return. An order of assessment dated 30.01.2015 was issued, wherein the Assessing Officer had arrived the tax payable including the interest as Rs.2,32,48,360/-. Since the petitioner had already paid Rs.1,07,63,080/-, the respondent issued a demand notice dated 30.01.2015, calling upon the petitioner to pay a sum of Rs.1,24,85,280/-, which is the interest accrued under Sections 234A, 234B and 234C. The respondent has also initiated penalty proceedings under Section 271(1)(c), by issuing a penalty notice dated 30.01.2015. However, based on the representation made by the petitioner on 27.03.2015, the respondent dropped the penalty proceedings. The petitioner filed a waiver application on 06.04.2015 for waiving the interest claimed by the respondent under Sections 234A, 234B and 234C. Since the said application was not considered, the petitioner filed WP(MD) No.16001 of 2016 before the Madurai Bench of this Court for early disposal of the waiver application. By order dated 26.08.2016, the Madurai Bench of this Court directed the Chief Commissioner of Income Tax, Tiruchirapalli to consider the waiver application. Subsequently, the said application was rejected. Pursuant to such order of rejection, the petitioner has paid a sum of Rs.1,24,85,280/- towards the interest portion and tax outstanding by way of several bank challans. However, the petitioner was served with a notice dated 30.01.2018, calling upon him to pay Rs.28,61,596/- towards interest accrued under Section 220(2) of the Income Tax Act, for delayed payment of interest claimed by the respondent. Thereafter, the petitioner made a representation on 12.02.2018, to waive the interest on interest. However, the respondent proceeded to issue the impugned notice on 26.03.2018 to the petitioner's banker and attached his bank Account No.042001001718285. Therefore, the present writ petition is filed before this Court.

2. When this writ petition was entertained by this Court on 20.04.2018, this Court, after recording the prima facie view, granted an interim order of stay. Consequent upon such stay, the attachment order was withdrawn on 27.04.2018, as admitted in the counter affidavit filed by the respondent. Apart from saying so, the respondent has stated the facts and circumstances, which necessitated for issuing the impugned proceedings.

3. Heard both sides.

4. The learned counsel for the petitioner submitted that since the attachment is now lifted, the respondent may be directed to consider the petitioner's application dated 12.02.2018 for waiver of the interest.

5. The learned standing counsel for the respondent submitted that if any such application is filed by the petitioner, the same will be considered and appropriate orders will be passed on merits and in accordance with law. However, he submitted that the petitioner may be directed to furnish one more copy of the

said application to the respondent, so that an order will be passed without loss of further time. He further submitted that till an order is passed in the said application, no coercive steps will be taken against the petitioner.

6. In view of the above stated facts and circumstances and in view of the fact that the respondent has withdrawn the attachment proceedings; that the petitioner's application dated 12.02.2018 seeking waiving off interest is said to be pending before the respondent and that the learned standing counsel agreed to consider the said application and pass orders on the same on merits and in accordance with law, this writ petition is disposed of, without expressing any view on the merits of the claim made by the petitioner on the request for waiver of interest, only with a direction to the respondent to consider the said application and pass orders on the same on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall also furnish a copy of the said application to the respondent once again along with a copy of this order, within a period of 7 days from the date of receipt of a copy of this order. Till an order is passed by the respondent in the application, no coercive steps shall be taken against the petitioner for the interest portion demanded in the impugned proceedings amounting to Rs.28,61,596/-. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mk

To

The Income Tax Officer
Ward I(4) Salem,
Room No.306, 3rd Floor,
New Building, No.3, Gandhi Road,
Salem - 636 007.

1 cc to MR. R. Lakshmi Rajan, Advocate SR.60044
1 cc to Mr.R.P. Srinivas, Advocate Sr.60044

W.P.No.9899 of 2018

(Cs-IX)
EU(16/10/2018)