IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.04.2018
CORAM
THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM
W.P.No.7957 of 2018 &
W.M.P.No.9910 of 2018

V.Sabitamani .. Petitioner

v.

1 Assistant Commissioner of Income Tax
Circle-II
No. 63, Race Course Road
Coimbatore-018.

2 The Manager
Catholic Syrian Bank
Raja Street, Coimbatore.

3 The Manager
South Indian Bank
Coimbatore Main .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the 1st respondent in C.No. CHE62C1/249/AIXPS7311Q and to quash the impugned Notice dated 30.01.2018 demanding an aggregated sum of Rs.62,74,380/- for the Assessment years 2009-2010 and 2010-11 pertaining to collection of disputed taxes.

For Petitioner : Mr.J.Balachandar

For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

Heard Mr.J.Balachandar, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the 1st respondent. In the light of the orders that the court proposes to pass orders, notice to the respondents 2 and 3 are dispensed with.

2. The petitioner is aggrieved by a notice issued by the 1st respondent dated 30.01.2018 directing the petitioner to produce payment of tax for the assessment years 2009-10 and 2010-11 being a total sum of Rs.62,74.380/-. The petitioner has also

impugned the consequential notice of attachment of the petitioner's bank accounts.

3. So far as the assessment for the year 2009-10 is concerned, the petitioner was unsuccessful upto Income Tax Appellate Tribunal and it is stated that the petitioner has filed a Tax Case Appeal before this court challenging this order of the tribunal for the said assessment year, which is yet to be numbered.

4. So far as the issue for the assessment year 2010-11 is concerned, the appeal filed by the Revenue against the order passed by the Commissioner of Income Tax (Appeals) was allowed by order dated 21.01.2015 and restoring all the issues to the file of the Assessing Officer with a direction to re-work the amount of depreciation on the WDV determined in the assessment year 2009-10 after the receipt of the appellate order of CIT (Appeals).

5. The petitioner is in the process of filing a tax case appeal as against the order passed by the ITAT dated 21.01.2015 for the assessment year 2010-11. In the mean time, since the petitioner's bank account has been attached, the petitioner has approached this court. Parallely, the petitioner has also filed a stay petition before the Chief Commissioner of Income Tax, Coimbatore on 10.04.2018.

6. The Revenue does not dispute the fact that the petitioner without prejudice to their rights and contentions has paid a sum of Rs.15,00,000/- towards the assessment for the year 2009-10. The payment to be made by the petitioner for the assessment year 2010-11 is Rs.22,91,440/-.

7. Considering the facts of the case and since the appeal filed as against the assessment order for the year 2009-10 is pending before this court in a tax case appeal filed by the petitioner, which is in SR stage, and as against the order passed by the tribunal for the assessment year 2010-11, the petitioner is in the process of filing an appeal, this court is of the view that a condition can be imposed, so that, interest of the Revenue will be safeguarded and simultaneously, the assessee will also have a partial relief.

8. Thus, considering the above, the writ petition is disposed of by directing the petitioner to pay a sum of Rs.5,00,000/- towards assessment for the year 2010-11. Since it is represented that the petitioner is undergoing severe financial crisis, they are granted six weeks

time from today to pay the said amount. For the purpose of complying with the direction, the 1st respondent is authorized to withdraw a sum of Rs.5,00,000/- from any one of the bank account maintained by the petitioner either in the 2nd respondent bank or in the 3rd respondent bank. Upon withdrawal of the said amount of Rs.5,00,000/-, attachment of both accounts shall be lifted. The petitioner is entitled to prosecute the other matters before the appropriate forum in the manner known to law. On compliance of the said condition, the remaining amount of tax and penalty, as demanded by the 1st respondent, shall remain stayed till the petitioner moves a stay petition in the pending tax case appeal, which shall be done within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

1 The Assistant Commissioner of Income Tax
Circle-II
No. 63, Race Course Road
Coimbatore-018.

+1 cc to Mr.J.Balachandar Advocate sr 28016
+1 cc to Mr.A.P.Srinivas SSC (Income Tax)Advocate sr 28019

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