IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2018

Coram

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

Writ Petition No. 11357 of 2018

M/s. SM Feeds & Farms India Private Limited
Represented by its Managing Director
Mr.E.Santhanam,
"Lucky Building", No.938, 12th Cross Street,
MKB Nagar, Vyasarpadi,
Chennai - 600 039. ...Petitioner

Vs.

1. The Deputy Commissioner of Income Tax,
O/o the Deputy Commissioner of Income Tax,
Corporate Circle - 6(2), Chennai,
Room No.705, 7th Floor, Vanaparthy Block,
No.121, MG Road, Nungambakkam,
Chennai - 600 034.

2. The Manager,
HDFC Bank,
No.759, ITC Centre, Annasalai,
Chennai - 600 002. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the 1st respondent to withdraw the notice under Section 226(3) in PAN: AANCS2321N dated 28.03.2018 and consequently direct the 2nd respondent to permit the operation of the cash credit facility maintained by the petitioner with the 2nd respondent.

For Petitioner : Mr.K.Ravi

For 1st Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

Heard Mr.K.Ravi, the learned counsel appearing for the petitioner and Mr.A.P.Srinivas, the learned Senior Standing Counsel accepting notice on behalf of the first respondent. In the light of the order the Court proposes to pass in this Writ Petition, notice to the second respondent/Bank is dispensed with.

2. The petitioner seeks for issuance of a writ of mandamus to direct the first respondent to withdraw the impugned notice and to permit the petitioner to operate the cash credit facility maintained by the petitioner with the second respondent.

3. The learned counsel appearing for the petitioner placed reliance on the decision of this Court in K.M.Adam Vs. Income Tax Officer [(1958) 33 ITR 26 (MAD)]. By relying upon the said decision, it is submitted that the cash credit account of the petitioner should not have been attached, as it will virtually cripple the entire business. Before going into the question as to whether the cash credit account of the petitioner can be attached, it has to be seen as to what is the total outstanding amount payable by the petitioner towards the tax demanded by the Department for the assessment years 2010-2011, 2013-14 and 2014-15. The break up figures of the three assessment years as furnished by the petitioner, in the supporting affidavit of this Writ Petition is as follows:-

Assessment Year	Amount
2010-11	3,08,610
2013-14	1,42,85,310
2014-15	2,53,11,420
Total	3,99,05,340

4. So far as the assessment year 2010-11 is concerned, the amount is very meager. With regard to the assessment year 2013-14, the matter is now pending before the Division Bench of this Court by way of Tax Case Appeal filed by the assessee. However, there is no interim order. Insofar as the assessment year 2014-2015 is concerned, the matter is now pending before the Income Tax Appellate Tribunal (ITAT) and the Court is informed that the Tribunal has heard the arguments and orders are likely to be passed in time. Even before the ITAT, the petitioner did not have the benefit of interim order. Thus, the total tax demanded against the petitioner is nearly 4 Crores.

5. Considering the fact that all the Fixed Deposits and account of the petitioner have been attached and the petitioner claims that his business has come to a standstill, this Court is of the view that appropriate direction can be issued to the petitioner to pay part of the amount demanded, so that the attachment of the petitioner's bank account, especially, the

cash credit account can be lifted and simultaneously, the interest of the revenue will be protected, if the petitioner pays a sum of Rs.50,00,000/- (Rupees Fifty Lakh Only) as against the total demand of Rupees Four Crore.

6. Accordingly, this Writ Petition is disposed of by directing the petitioner to pay the sum of Rs.50,00,000/- (Rupees Fifty Lakh Only) within six weeks from the date of receipt of a copy of this order. If the payment is made within the said time limit, then, the attachment of the petitioner's bank account, i.e., cash credit account shall be lifted. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner of Income Tax,
O/o the Deputy Commissioner of Income Tax,
Corporate Circle - 6(2), Chennai,
Room No.705, 7th Floor, Vanaparthy Block,
No.121, MG Road, Nungambakkam,
Chennai - 600 034.

+1cc to Mr.K.Ravi, Advocate SR.No.32371
+1cc to Mr.A.P.Srinivas, Advocate SR.No.32583

Writ Petition No. 11357 of 2018

NRL(CO)
GN(17/05/2018)