IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

C O R A M

THE HON'BLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.22108 of 2018

T.R.Shanmugasundaram ...Petitioner

vs

1.The Deputy Commissioner of Income,
Central Circle -1,
Race Course Road,
Coimbatore 641 018.

2.Commissioner of Income Tax (Appeals)-19,
Nungambakkam High Road,
Chennai 600 034.

3.Office of the Tax Recovery Officer-2,
No.63, Race Course Road,
Coimbatore-18. ...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the second respondent to dispose of the appeal pending before it filed by the petitioner in I.T.A.No.746-752/2016-17 within the date prescribed by this Court.

For petitioner : Mr.Niranjan Rajagopalan

For Respondents: Mr.ANR.Jayaprathap
Standing Counsel

O R D E R

This writ petition is filed for a mandamus directing the second respondent to dispose the appeal pending in I.T.A.No.746-752 of 2016-17.

2. Heard Mr.Niranjan Rajagopalan, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Standing Counsel for the respondents.

3. The petitioner is an assessee. In respect of the Assessment Years 2009-10 to 2015-16, assessment orders were passed on 30.12.2016. Aggrieved against such assessment orders, the petitioner preferred appeals before the second respondent on 28.01.2017 and the same are pending.

4. Now, the present writ petition is filed seeking for a positive direction to the Appellate Authority viz., the second respondent to dispose the appeals within a time frame.

5. Learned counsel for the petitioner further pointed out that this Court has already observed in its earlier order passed in W.P.No.28294 of 2017 dated 13.11.2017 for considering the appeal to be disposed of at an early date. Therefore, he contended that inspite of such observation, the Appellate Authority is not disposing the appeals.

6. On the other hand, the learned Standing Counsel for the respondents submitted that since the petitioner has not complied with the second condition imposed by this Court by furnishing the immovable properties security to the tune of Rs.2 crores, he is not entitled to get any indulgence from this Court.

7. In so far as the non compliance of the second condition is concerned, it is seen that the Revenue has already acted upon by attaching the properties belonging to the petitioner, which is the subject matter in W.P.No.22107 of 2018 and the said Writ Petition is also disposed today by a separate order. This Court, while disposing the earlier writ petition, has also made clear that non compliance of the second condition would make the stay vacated automatically. When such being the observation made, I do not think that there will be any impediment for the second respondent viz., the Appellate Authority to dispose the appeals on merits and in accordance with law.

8. Accordingly, this writ petition is disposed of by directing the second respondent to consider the appeals pending in No.I.T.A.No.746-752/2016-17 and pass orders on the same on merits and in accordance with law within a period of three

months from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any view on the merits of the appeals, as it is for the Appellate Authority to consider and decide. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vri
To

1.The Deputy Commissioner of Income,
Central Circle -1,
Race Course Road,
Coimbatore 641 018.

2.Commissioner of Income Tax (Appeals)-19,
Nungambakkam High Road,
Chennai 600 034.

3.Office of the Tax Recovery Officer-2,
No.63, Race Course Road,
Coimbatore-18.

+2cc to M/S.G.R.Associates, Advocate Sr.60677,61359

W.P.No.22108 of 2018

ad[co]
srg 18/09/2018