In the High Court of Judicature at Madras

Dated : 02.2.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.2269 & 2270 of 2018
& WMP.Nos.2766 & 2767 of 2018

M/s.Indian Institute of Logistics
Pvt. Ltd., rep.by its Director
V.J.Pushpa Kumar ...Petitioner

Vs

The Income Tax Officer, TDS Ward 2(2),
Room No.109, I Floor, BSNL Building
Tower-I, Greams Road, Chennai-6. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus (i) to call for the records relating to the orders passed by the respondent in TDS-2(2)/CHE/2017-18 dated 01.1.2018, quash the same and forbear the respondent from taking any coercive measures such as attachment of bank accounts pending payment of the TDS related dues within the time permitted by this Court (WP.No.2269 of 2018); and to call for the records relating to the order passed by the respondent in TAN : CHE105939D/TDS-W2 (2)/2016-17 dated 31.3.2017, quash the same and consequently permit the petitioner to pay the dues payable in 36 months as prayed for by the petitioner (WP.No.2270 of 2018).

For Petitioner :Mr.Niranjan Rajagopalan

For Respondent :Mrs.Hema Muralikrishnan, SSC and
Mr.Navin Durai Babu, JSC



COMMON ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel assisted by Mr.Navin Durai Babu, learned Junior Standing Counsel, accepts notice for the respondent. Heard both.

2. The petitioner is an educational institution offering various courses and it appears that they have not remitted the tax, which was deducted at source within the time stipulated under the provisions of the Income Tax Act, 1961. Consequently, interest became payable for the belated payment in terms of Section 201(1A) of the said Act.

3. The petitioner expressed their difficulties to the respondent Department and this Court finds that the respondent - Department had been benevolent and had granted indulgence to the petitioner by passing an order dated 31.3.2017, by which, the respondent permitted the petitioner to clear the outstanding in 10 monthly instalments subject to payment of interest chargeable under Section 220(2) of the said Act. The first instalment was due on 10.5.2017 and the subsequent instalments become due on the 10th of every succeeding month. The communication dated 31.3.2017 further states that any failure to adhere to the instalment scheme should result in cancellation of the scheme and coercive steps for recovery of tax demand would be initiated.

4. Admittedly, the petitioner has paid only Rs.3 lakhs and defaulted in payment of monthly instalments. Therefore, the indulgence shown by the Department vide its communication dated 31.3.2017 does not, any longer, appear to enure to the benefit of the petitioner.

5. As rightly pointed out by the learned Senior Standing Counsel appearing for the respondent, teachers would become liable for payment of interest under Section 234A, B and C, which should also be fastened on the petitioner.

6. In the light of the above facts, there is no error in the impugned communication dated 01.1.2018, which is one more opportunity granted to the petitioner. The Department has rightly initiated prosecution and it appears that the petitioner has challenged the same on certain technical grounds by filing Crl.O.P.Nos.20355 to 20358 of 2017, which have been entertained, an order of interim stay has been granted and the personal appearance of the directors has been dispensed with. Thus, considering the facts and circumstances of the case, no indulgence can be granted to the petitioner and the impugned communication does not call for interference.

7. For all the above reasons, the writ petitions are dismissed. No costs. Consequently, the connected WMPs are also dismissed.

8. However, it is open to the petitioner to approach the Authorities, if so advised.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

To

The Income Tax Officer, TDS Ward 2(2),
Room No.109, I Floor,
BSNL Building Tower-I,
Greams Road, Chennai-6.

+ 2 ccs to M/s. G.R. Associates, Advocate Sr.8292
+ 1 cc to M/s. Hema Muralikrishnan, Advocate Sr.8044

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GP(CO)
EU(22/02/2018)