IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.20206 of 2013
and
M.P.Nos.1 & 2 of 2013

Navadisha Educational Trust,
No.635/1, 3rd Cross Street,
Kalki Nagar,
Near AG's Colony VI Main Road,
Velachery,Chennai-600 0042.
Represented by its Managing Trustee,
Ms.Rukmini Ramachandran
... Petitioner

Vs.

1.The Chief Commissioner of Income Tax,
Chennai-III,
124,M.G.Road,
Chennai-600 034.

2.The Director of Income Tax,
(Exemptions),
124,M.G.Road,
Chennai-600 034.

3.The Deputy Director of Income -tax,
(Exemptions)-III,
124,M.G.Road,
Chennai-600 034.

4.The Commissioner of Income Tax(Appeals)-XII,
124, M.G.Road, Chennai-600 034.
... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus call for the records of the third respondent and quash the impugned order in PAN : AAAATN3824D/10-11 dated 14.06.2013 and direct the third respondent to grant stay of recovery proceedings till the disposal of the appeal by the fourth respondent.

For Petitioner : Mr.Subbaraya Aiyar Padmanabhan
For Respondents: Mr.Naveen Durai Babu
Standing Counsel
and
Ms.Hema Murali Krishnan
Standing Counsel

O R D E R

Heard Mr.Subbaraya Aiyar, learned counsel for the petitioner and Mr.Naveen Durai Babu & Ms.Hema Muralikrishnan, learned Standing Counsels appearing on behalf of the respondents.

2.The learned counsel for the respondents vehemently contended that the impugned proceedings is only a recovery notice and therefore, the department should not be injuncted from enforcing the same and they should be permitted to recover the tax as quantified in the assessment order dated 31.03.2013 under Section 143 (3) of the Income Tax Act, 1961 [in short "the Act"], passed by the third respondent.

3.The assessment order dated 31.03.2013 is an outcome of the cancellation of the approval granted in favour of the petitioner under Section 10(23C)(vi) of the Act by order dated 24.03.2011. This order has been put to challenge by the petitioner in W.P.No.5560 of 2012 and the Court by order dated 09.03.2012 has granted an order of interim stay and the said writ petition is pending and it is not known, whether the respondents have filed counter affidavit in the said writ petition. And the said order of interim stay dated 09.03.2012 has been in force till date.

4.Therefore, at this juncture to permit the third respondent to proceed to enforce the collection of tax pursuant to the assessment orders dated 31.03.2013 would be inequitable. One more reason for saying so, if the petitioner succeeds in W.P.No. 5560 of 2012 then it would have a direct impact on the assessment done on the petitioner, which culminated in the order dated 31.03.2013.

5.For the above reasons, the impugned demand notice shall continue to be remained stay till the disposal of W.P.No.5560 of 2012. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

maya

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Commissioner of Income Tax,
Chennai-III,
124,M.G.Road,
Chennai-600 034.

2.The Director of Income Tax,
(Exemptions),
124,M.G.Road,
Chennai-600 034.

3.The Deputy Director of Income -tax,
(Exemptions)-III,
124,M.G.Road,
Chennai-600 034.

4.The Commissioner of Income Tax(Appeals)-XII,
124, M.G.Road, Chennai-600 034.

+1cc to M/s.Subaraya Aiyar, Advocate Sr.No.4698
+1cc to M/s.Hema Murali Krishnan, Advocate Sr.No.4756

KAN(CO)
sm:9.2.2018

W.P.No.20206 of 2013