IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.2586 & 2587 of 2018 and
WMP.Nos.3189 to 3191 of 2018

M/s.S4 Carlisle Publishing Services Pvt Ltd
Rep. By its authorized Signatory,
Mr.Sanjay M Lulla
No.141, 1st Floor, Praksh Towers,
Rajiv Gandhi Salai, OMR, Kotivakkam,
Chennai 600 041. ... Petitioner in both W.Ps

Vs.

1.The Assistant Commissioner of Income Tax,
Company Circle 6 (1),
121 Mahatma Gandhi Road, Nungambakkam,
Chennai-600 034.

2.The Joint Commissioner of Income Tax, Range 6,
121 Mahatma Gandhi Road, Numgambakkam,
Chennai-600 034.

3.The Bank Manager,
M/s.State Bank of India,
SME Adayar Branch,
Chennai 600 020.

4.The Bank Manager,
M/s.ICICI Bank,
R.A.Puram Branch,
R.A.Puram, Chennai. ...Respondents in both W.Ps.

COMMON PRAYER:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus calling for the records on the file of the first respondent in notice under Section 226(3) of the Income Tax Act, 1961 in PAN AAFCS2900K dated 02.02.2018 for AY 2008-09 issued to the third and fourth respondent and quash the same as arbitrary and illegal and consequently direct the first and second respondent not to proceed with the recovery of demand in pursuance to the assessment order passed in PANAAFCS2900K dated 31.03.2014 for the AY 2008-09 till the disposal of the appeal and stay petition by the Appellate Tribunal.

For Petitioner in both W.Ps : Mr.P.H.Aravindh pandian
Senior counsel for
Mr.V.Balaji

For Respondents in both W.Ps: Mr.A.P.Srinivas for R1 & R2

COMMON ORDER

Heard Mr.P.H.Aravindh Pandian, learned senior counsel for M/s.N.V.Balaji, learned counsel for petitioner and Mr.A.P.Srinivas, learned standing counsel for the Revenue.

2. The petitioner is before this Court aggrieved by notice issued by the 1st respondent under Section 226(3) of the Income Tax Act, 1961, calling upon the petitioner to pay the income tax along with the interest for the assessment made on the petitioner for the assessment year 2008-09.

3. Aggrieved by the order of assessment passed by the Deputy Commissioner of Income Tax, the Company circle VI(1) (1st respondent) under Section 143 (3) read with Section 147 of the Act dated 31.03.2014, the petitioners have preferred an appeal before the Income Tax Appellate Tribunal on 31.01.2018. Admittedly, the appeal is in time, as it appears that it has been filed within less than 10 days from the date on which the order of Commissioner of Income Tax (Appeals) was served. Along with the appeal petition, the petitioner has also filed a stay petition before the ITAT which is pending. I am informed that the stay application will be taken up by the Tribunal within two weeks of the appeal being numbered. In the mean time, the 2nd respondent sought to recover the tax as quantified in the assessment order which would virtually refer the appeal petition itself infructuous.

4. The learned senior counsel appearing for the petitioner submits that 37% of the disputed tax has already been paid by the petitioners. In my considered view this would safeguard the interest of revenue till the Tribunal takes decision on the stay application filed by the petitioner before the Tribunal.

5. Thus, for the above reason, the impugned notice under Section 226(3) of the Act dated 02.02.2018 shall remain stayed and await the orders to be passed by the ITAT in the stay application filed by the petitioner/assessee before the Tribunal challenging the order passed by the Commissioner of Income Tax (Appeals) dated 30.11.2017 affirming the order of assessment dated 31.03.2014.

6. Needless to state that the petitioner is entitled to operate all their bank account and the respondent/ Department is not entitled to interfere with the operation of the bank account and await the decisions of the Tribunal and accordingly, intimate the petitioners bankers by duly lifting

the bank attachments.

7. With the above observation, the writ petitions stand disposed of. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner of Income Tax,
Company Circle 6 (1),
121 Mahatma Gandhi Road, Nungambakkam,
Chennai-600 034.

2.The Joint Commissioner of Income Tax, Range 6,
121 Mahatma Gandhi Road, Numgambakkam,
Chennai-600 034.

3.The Bank Manager,
M/s.State Bank of India,
SME Adayar Branch,
Chennai 600 020.

4.The Bank Manager,
M/s.ICICI Bank,
R.A.Puram Branch,
R.A.Puram, Chennai.

+1cc to Mr.A.P.Srinivas, Advocate SR.No.8839
+1cc to Mr.N.V.Balaji, Advocate SR.No.1367 dt.9.2.2018

sm:6.2.2018

W.P.Nos.2586 & 2587 of 2018