

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.19503 of 2018
and WMP. No.22951 of 2018

M/s.Tamil Nadu Pollution Control Board,
Rep. by its Member Secretary,
76, Mount Salai,
Guindy,
Chennai - 600 032.Petitioner

Vs.

1. Union of India,
Rep. by its Secretary to Government,
Department of Revenue,
Ministry of Finance,
New Delhi - 110 001.
2. The Commissioner of Income Tax (Exemptions),
Aayakar Bhavan,
121, Mahatma Gandhi Road,
Chennai - 600 034.
3. The Registrar,
Income Tax Appellate Tribunal,
Rajaji Bhavan, Chennai.Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 1st respondent to consider the representation of the petitioner in Letter No.TNPCB/AC2/24188/2004, dated 07.05.2018 and dispose of the same in the backdrop of such exemptions granted to similarly placed other Statutory State Pollution Control Boards, within a time limit to be fixed by this Court.

For Petitioner :Mr.C.Manishankar,
Additional Advocate General
for M/s.Rita Chandrasekar
For Respondents:Mrs.Hema Muralikrishnan

ORDER

Mrs.Hema Muralikrishnan, learned Standing Counsel takes notice for the respondents. By consent of the learned counsel appearing for the parties, the writ petition is taken up for final hearing at the admission stage itself.

2. This writ petition has been filed by the Tamil Nadu Pollution Control Board for issuance of a writ of mandamus, directing the first respondent to consider the representation of the petitioner dated 07.05.2018 and dispose of the same granting exemption from income tax.

3. According to the petitioner, an application was presented to the second respondent on 23.08.2004 seeking exemption under Section 10 (23C) (iv) of the Income Tax Act. However during the consideration of the application, Income Tax Authorities passed an order directing the petitioner to pay income tax, which was challenged by the petitioner and the matter is pending before the appellate authority.

4. Mr.C.Manishankar, learned Additional Advocate General submitted that in the Writ Petitions in W.P.Nos.6170 to 6174 of 2018 filed by the petitioner against the order passed in the stay applications, the Hon'ble First Bench of this Court taking note of the fact that the petitioner is a statutory body, observed that the petitioner could seek exemption, while granting a conditional order of stay on 16.03.2018. Accordingly, the petitioner has also submitted a representation to the respondents. It is further contended that exemptions have been granted to the Pollution Control Boards established in two other States and once exemption is granted, there won't be any necessity to pursue the appeals, which are pending before the Income Tax Authorities. It is the submission of the learned Additional Advocate General that the direction could be issued to the first respondent to consider the representation of the petitioner.

5. The learned Standing Counsel for the respondents submitted that the first respondent is ready to consider and pass orders on the representation of the petitioner in accordance with law.

6. In the light of the submissions of the learned counsels on either side and also considering the nature of prayer sought for in the writ petition, this Court without going into the merits of the case, directs the first respondent to consider the representation of the petitioner dated 07.05.2018 and pass appropriate orders purely on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Till then, the third respondent shall not proceed

with the appeals of the petitioner.

7. Accordingly, the writ petition is disposed of. However, there is no order as to cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pvs
To

- 1.The Secretary to Government,
Union of India,
Department of Revenue,
Ministry of Finance,
New Delhi - 110 001.
2. The Commissioner of Income Tax (Exemptions),
Aayakar Bhavan,
121, Mahatma Gandhi Road,
Chennai - 600 034.
3. The Registrar,
Income Tax Appellate Tribunal,
Rajaji Bhavan, Chennai.

+lcc to Mrs.Rita Chandrasekar, Advocate SR.NO.51780

+lcc to Mrs.Hema Muralikrishnan, Standing Counsel SR.NO.52292

SV(CO)

sm:3.9.2018

सत्यमेव जयते

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