BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.1832, 1835 and 1885 of 2018
and
W.M.P.(MD)Nos. 1955, 1959 and 2053 of 2018

D.M.Venkateswaran ... Petitioner in W.P.(MD)No.1832 of 2018
D.M.Maheswaran ... Petitioner in W.P.(MD)No.1835 of 2018
M.Jeya ... Petitioner in W.P.(MD)No.1885 of 2018

Vs.

1.The Assistant Commissioner of Income-tax,
Non Corporate Circle-II,
V.P.Rathinasamy Nadar Road,
Madurai- 625 002.

2.The Tax Recovery Officer,
Central Range,
V.P.Rathinasamy Nadar Road,
Madurai-625 002.

3.The Chief Commissioner of Income Tax,
Madurai.

(Suo motu impleaded as third respondent
vide order dated 26.03.2018) ... Respondents

PRAYER in W.P.(MD)No.1832 of 2018: This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to call for the records of the respondents and direct the first respondent to deal with the waiver petition filed by the petitioner in manner known to law at the earliest and till such time the second respondent may be directed to defer the recovery action against the petitioner vide proclamation of sale in Form No.I.T.C.P.13 (See Rule 38 and Rule 52(2) of the Second Schedule to the Income Tax Act, 1961), bearing No.T.R.No.73/TRO-2/MDU-2017-18 dated 04.01.2018 posting the public auction at 11 AM on 07.02.2018 at Madurai as the petitioner is willing to pay the total tax amount in installment without taking into account the interest, levied under section 234 A and 234 B, 220(2) and Rule 5 interest under the Income Tax Act, 1961 that may be leviable.

PRAYER in W.P.(MD)No.1835 of 2018: This Petition is filed under

Article 226 of the Constitution of India to issue a Writ of Mandamus to call for the records of the respondents and direct the first respondent to deal with the waiver petition filed by the petitioner in manner known to law at the earliest and till such time the second respondent may be directed to defer the recovery action against the petitioner vide proclamation of sale in Form No.I.T.C.P.13 (See Rule 38 and Rule 52(2) of the Second Schedule to the Income Tax Act, 1961), bearing No.T.R.No.119/TRO-1/MDU-2017-18 dated 04.01.2018 posting the public auction at 11 AM on 07.02.2018 at Madurai as the petitioner is willing to pay the total tax amount in installment without taking into account the interest, levied under section 234 A and 234 B, 220(2) and Rule 5 interest under the Income Tax Act, 1961 that may be leviable.

PRAYER in W.P.(MD)No.1885 of 2018: This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to call for the records of the respondents and direct the first respondent to deal with the waiver petition filed by the petitioner in manner known to law for the Assessment year 2001-2002 to 2007-2008 respectively at the earliest and till such time the second respondent may be directed to defer the recovery action against the petitioner vide proclamation of sale in Form No.I.T.C.P.13 (See Rule 38 and Rule 52(2) of the Second Schedule to the Income Tax Act, 1961), bearing No.T.R.No.103/TRO-1/MDU-2017-18 dated 04.01.2018 posting the public auction at 11 AM on 07.02.2018 at Madurai as the petitioner is willing to pay the total tax amount in installment without taking into account the interest, levied under section 234 A and 234 B, 220(2) and Rule 5 interest under the Income Tax Act, 1961 that may be leviable.

For petitioners : Mr.V.S.Jayakumar

For Respondents : Mr.S.Srimathy
Standing Counsel for Income Tax
(in all the Writ petitions)

COMMON ORDER

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The issue raised in all these writ petitions is one and the same. The writ petitioners were treated as Assessees in default and their properties were brought to sale. At this stage, these writ petitions came to be filed.

2. The matter was taken up for admission on 02.02.2018. This Court issued certain directions for payment of a sum of Rs.25,00,000/- (Twenty Five Lakhs only) on or before 23.03.2018. Today, when the matter was taken again, the learned counsel for the writ petitioners submit that the directions given by this Court have been complied with full.

3. Taking note of this submission, the third respondent herein is directed to dispose of the petitions filed by the writ

petitioners for waiver of interest.

4. The learned counsel for the writ petitioners submit that two petitions seeking waiver of interest under Sections 234 A and 234 B of Income Tax Act, 1961 and Section 220(2A) of Income Tax Act, 1961, submitted to the first respondent herein have since been forwarded by the third respondent and that enquiry has since commenced. The third respondent shall pass appropriate orders on merits within a period of four months from the date of receipt of a copy of this order. Till the said proceedings are concluded, the properties of the writ petitioners shall not be brought to sale.

5. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1.The Assistant Commissioner of Income-tax,
Non Corporate Circle-II,
V.P.Rathinasamy Nadar Road,
Madurai- 625 002.

2.The Tax Recovery Officer,
Central Range,
V.P.Rathinasamy Nadar Road,
Madurai-625 002.

3.The Chief Commissioner of Income Tax,
Madurai.

+3CC to Mr.V.S.Jeyakumar, Advocate, SR.No. 58019, 58020, 58021
+1CC to Mrs.S.Srimathy, Advocate, SR.No. 58096

ORDER MADE IN
W.P.(MD)Nos.1832, 1835 and
1885 of 2018
26.03.2018

Pnn
AM/KKR/SAR 3/03.05.2018/3P/8C