



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 3104 of 2018

and

W.M.P. (MD). No. 3258 of 2018

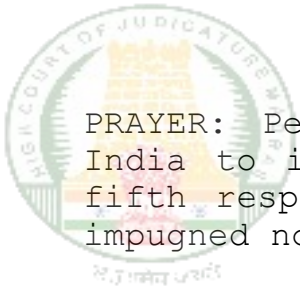
M/s.Standard Fireworks Private Limited,
1/3, Thiruthangal Road,
Sivakasi - 626 123.

.. Petitioner

Vs.

1. The Director General of
Income Tax (Investigation),
Old No.108, Nungambakkam High Road,
Chennai - 600 034.
- 2.The Principal Commissioner of Income Tax,
Central Circle - 2,
Room No.302, Third Floor,
Income Tax Department,
Old No.108, Nungambakkam High Road,
Chennai - 600 034.
- 3.The Commissioner of Income Tax (Appeals)-19,
Income Tax Department,
121, Mahatma Gandhi Road,
Nugambakkam,
Chennai - 600 034.
- 4.The Joint Commissioner of Income tax,
Central Circle - 2,
Income Tax Department,
Income Tax Staff Quarters Complex,
Kulamangalam Road, Meenambalpuram,
Madurai - 625 002.
- 5.The Assistant Commissioner of Income Tax,
Central Circle - 2,
Income Tax Department,
Income Tax Staff Quarters Complex,
Kulamangalam Road,
Meenambalpuram,
Madurai - 625 002.

.. Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records of the fifth respondent in PAN: AACSL480M dated 10.01.2018 and quash the impugned notice/order issued u/s 226(3) of the Income Tax Act, 1961.

For petitioner : Mr. S.Sridhar
For respondents : Mrs. S.Srimathy
Special Government Pleader

O R D E R

Mrs.S.Srimathy, learned Special Government Pleader takes notice for the respondents

2. By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was visited with a series of penalty orders passed under the Section 271 (1)(C) of the Income Tax Act, 1961 for the assessment years 2009-2010 to 2014-2015. Aggrieved by the same, the writ petitioner herein has preferred appeals before the Appellate Authority namely the third respondent herein. The appeals are pending as on date. The petitioner has also taken out stay application in the pending appeals. During the pendency of the stay application recovery proceedings came to be initiated and as a result, sum of Rs.2.70 crores has been recovered from the Bank Account of the petitioner. But the Bank Accounts of the petitioner continued to be remain frozen, on account of the issuance of the impugned notice under Section 226 (3) of Income Tax Act, 1961.

4. The learned Counsel appearing for the petitioner drew the attention of this Court to Office Memorandum dated 31.07.2017 in which it has been stated that where the outstanding demand was disputed before the Appellate Authority, the assessing officer shall grant stay of demand till the disposal of the first appeal on payment of 20% of the disputed demand. In this case, a simple arithmetic calculation would show that more than 20% of the disputed demand has already been recovered and adjusted by the Department. In view of the same, the impugned notices shall be kept in abeyance and it shall abide by the outcome of the appeals filed by the petitioner herein.

5. With this direction, the Writ Petition is allowed accordingly. No costs. Consequently, W.M.P. (MD). No. 3258 of 2018 is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/



To:

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+2CC to M/s.S.Sridhar, Advocate, SR.No. 48844
+1CC to Mrs.S.Srimathy, Advocate, SR.No. 49079

W.P. (MD) .No.3104 of 2018
15.02.2018

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AM/SV MMS/SAR 3/16.02.2018/3P/9C