THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.5016 OF 2018

ORDER: (per SK,J)

The prayer of the petitioner-Trust in this case reads as under:

> "In the above circumstances, it is prayed that the Hon'ble Court may be pleased to pass an order or direction especially one in the nature of writ of mandamus holding that the Respondents order dated 02.02.2018 rejecting the stay petitions filed by the Petitioner, seeking stay of disputed demand of Rs,82, 61,300/-, Rs.26,24,380/-, Rs.6,81,510/- and Rs.28,21,545/- for the assessment years 2010-11, 2011-12, 2014-15 and 2015-16, respectively, and in directing the Petitioner to pay up the entire disputed demand, as being illegal, arbitrary, burdensome and unsustainable in law and consequently direct the Respondent not to insist upon payment of disputed taxes quantified as payable for a sum of Rs.82,61,300/-, Rs.26,24,380/-, Rs.6,81,510/- and Rs.28,21,545/- for assessment years 2010-11, 2011-12, 2014-15 and 2015-16, respectively, pending disposal of first appeal by the 1st appellate authority and pass such other order(s) as the Hon'ble Court deems fit and proper in the interest of justice."

It appears that the petitioner-Trust moved an application under Section 220(6) of the Income-tax Act, 1961 (for short, 'the Act of 1961'), before the Income Tax Officer (Exemptions)-2, Hyderabad, stating that it had filed an appeal and therefore, it should not be treated as an asseessee in default. By the impugned order dated 02.02.2018, the Income Tax Officer (Exemptions)-2, Hyderabad, stated as under:

> 'Your request to keep the demand in abeyance till the matter is decided by the CIT(A) is rejected and you are requested to pay the following demands:

Asst.Year	Demand
2010-11	Rs.82,61,300
2011-12	Rs.26,24,380
2013-14	Rs.28,21,545
2014-15	Rs.6,81,510

> The demand notice for the above assessment years has been served on 30.12.2017 and has fallen due for payment on 29.01.2018. You are therefore, requested to pay the above demands immediately and produce challan in proof of payment. Please note that in case you fail to comply with this, action will be taken for recovery of the demand in accordance with the provision of Income Tax Act, 1961.'

Sri K.Vasantkumar, learned counsel for the petitioner-Trust, would submit that his client supported its plea for relief under Section 220(6) of the Act of 1961 with case law but, despite the same, the Income Tax Officer (Exemptions)-2, Hyderabad, disallowed its plea without even disclosing the reasons therefor.

We find merit in this submission as the impugned order reflects that the request of the petitioner-Trust to keep the demand in abeyance till the matter is decided by the Commissioner of Income Tax (Appeals) was rejected without even stating the reasons therefor.

Sri J.V.Prasad, learned senior standing counsel for the Revenue, was heard but he has no justification to support this unreasoned impugned order.

The writ petition is accordingly allowed on this short ground setting aside the impugned order dated 02.02.2018 passed by the Income Tax Officer (Exemptions)-2, Hyderabad. The application of the petitioner-Trust under Section 220(6) of the Act of 1961 shall be considered afresh on its own merits and in accordance with law and a reasoned order shall be passed thereon. This exercise shall be completed expeditiously and, in any event, not later than two weeks from the date of receipt of a copy of this order. Pending this exercise, no coercive measures shall be initiated against the petitioner-Trust.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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M.GANGA RAO,J

Date:28.02.2018

<u>Note:</u>
Furnish C.C. by 02.03.2018.
(B/o)
GJ