IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Eleventh day of July Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE T. S. SIVAGNANAM

AND

THE HON`BLE MRS JUSTICE V.BHAVANI SUBBAROYAN

CMP Nos.8153 to 8156 of 2018

IN TCA.Nos.607 to 610/2011

A.MURALIDHARAN [PETITIONER IN ALL THE APPEALS]

Vs

1 COMMISSIONER OF INCOME TAX [RESPONDENT IN ALL THE APPEALS]
WARD NO. 11/5 ERODE.

Petitions praying that in the circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(1) To grant ad interim stay of demand and consequent auctioning of the properties attached further restrain the Respondent, their subordinates, officers etc., from initiating recovery proceedings against the petitioner herein (in CMP.8153/2018 in TCA.607/2011) and;

(2) *To grant ad interim stay of demand and consequent auctioning of the properties attached further restrain the Respondent, their subordinates, officers etc., from initiating recovery proceedings against the petitioner herein (in CMP.8154/2018 in TCA.608/2011)*

(3)To grant ad interim stay of demand and consequent auctioning of the properties attached further restrain the Respondent, their subordinates, officers etc., from initiating recovery proceedings against the petitioner herein (in CMP.8155/2018 in TCA.609/2011)

(4) *To grant ad interim stay of demand and consequent auctioning of the properties attached further restrain the Respondent, their subordinates, officers etc., from initiating recovery proceedings against the petitioner herein (in CMP.8156/2018 in TCA.610/2011) pending disposal of the TCA.Nos.607 to 610/2011 respectively.*

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MS.PUSHYA SITARAMAN, SENIOR COUNSEL FOR MS.J.SREE VIDYA, Advocate for the petitioner in all the appeals and of MR.T.R.SENTHIL KUMAR, SENIOR STANDING COUNSEL on behalf of the Respondent in all the Appeals the court made the following order:-

(Common Order of the Court was made by T.S.Sivagnanam, J.)

Heard Ms.Pushya Sitaraman, learned Senior Counsel for Ms.J.Sree Vidya, learned counsel for the petitioner; and Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the respondent.

2.The assessee has filed these petitions for grant of stay and consequently, forbear the respondent from initiating recovery proceedings against the petitioner for recovery of the disputed tax pending disposal of these appeals.

3.The appeals were admitted on 07.12.2011 and since the appeals are pending.

4.The learned Senior Counsel for the petitioner would submit that the reason for moving the stay petitions, at this juncture, is on account of the proposed action by the respondent for recovery of the balance tax by sale of the petitioner's property, which are subject matter of attachment. It is submitted that substantial payment has been effected by the petitioner, which is more than 70% of the demand and if the petitioner's property are sold while these appeals are pending, the petitioner would be put to irreparable hardship.

5.In the affidavits filed in support of these stay petitions, it is stated that the total outstanding for all the three assessment years is Rs.1,34,75,052/- out of which, the respondent has recovered a sum of Rs.14 Lakhs till date by way of attaching the rental income received from the petitioner's property and in addition to that, the petitioner is stated to have paid a sum of Rs.75,60,000/-, vide demand draft dated 19.06.2017, out of the sale proceeds received by the assessee upon selling one of his properties. Therefore, it is submitted that 70% of the demand has been paid and the petitioner's property at Komarapalayam and Kadachanallur, Thiruchengodu, Namakkal, have been attached.

6.Learned Senior Standing Counsel submitted that these stay petitions were filed some time during April' 2018 and as on date, no precipitated action has been initiated by the respondent.

7.Considering the fact that these appeals have been admitted, as the Court was *prima facie* satisfied that there are substantial questions of law to be answered, and taking note of the fact that the assessee has already paid 70% of the demand and two of the assessee's properties are under attachment, we opine that the interest of Revenue is sufficiently safeguarded.

8.For the above reasons, there will be an order of stay of the remaining demand of tax for the three assessment years. However, the attachment of the immovable properties of the assessee shall continue.

9.Accordingly, the stay petitions stand disposed of. No costs.

-sd/-
11/07/2019
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE INCOME TAX
APPELLATE TRIBUNAL, CHENNAI 'D' BENCH

C.C. to M/S.J.SREE VIDYA Advocate SR.NO.8707

C.C. To MR.T.R.SENTHILKUMAR, Advocate SR.NO.8707

Order

in
CMP Nos.8153 to 8156 of 2018

IN TCA.Nos.607 to 610/2011

Date :11/07/2019

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