IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 26-03-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

T.C.A.No.221 of 2019

Sri A.Manoharan ...Appellant

-vs-

Income Tax Officer,
Non Corporate Ward - 17 (2),
Room No.506, 5th Floor,
BSNL Building, Greams Road,
Chennai - 600 006. ...Respondent

Appeal under Section 260A of the Income Tax Act,1961, against the order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, dated 11.01.2019, passed in S.P.No.415/CHNY/2018 in ITA.No.3512/CHNY/2018 against the proceedings of the Income Tax officer, Non Corporate Ward -17(2), Chennai - 600 006, dt.16.11.2018 and made in PAN AAPPM5503K/2015-16 for the Assessment year 2015-16; and against the Appellate order of the Commissioner of Income Tax(Appeals)-5, 121, Mahatma Gandhi Road, Nungambakkam, Chennai - 600 034, dt:28.09.2019 and made in ITA.No.178/CIT(A)-5/2017-18 for the Assessment year 2015-2016.

For Appellant : Mr.V.Veeraraghavan

For Respondent : Mrs.R.Hemalatha,
Senior Standing Counsel.

JUDGMENT
(Judgment of the Court was delivered by Dr.Vineet Kothari,J.)

Assessee has filed this Appeal under Section 260A of the Income Tax Act,1961, raising the purported Substantial Questions of Law, arising from the Interlocutory Order passed by the learned Income Tax Appellate Tribunal on 11.01.2019, whereby, the learned Tribunal dismissed the Stay Petition filed along with the main Appeal by the Assessee for Assessment Year 2015-2016. The Questions of Law raised are as under :

(1) Whether, in law, the Hon'ble Income Tax Appellate Tribunal was right in concluding that there is no prima facie case for the Appellant just because the Construction Agreement is not on stamp paper ?

(2) Whether, in law, the Appellate Tribunal was right in concluding that there is no prima facie case for the Appellant in one ground without considering delving into other grounds pending before it for adjudication on merits ?

(3) Whether on the facts and in the circumstances of the case and in law the Appellate Tribunal was right in dismissing the Stay Petition filed by the Appellant, without adjudicating specific grounds of stay raised before it ?

2. Mrs.R.Hemalatha, learned Senior Standing Counsel for the Respondent-Revenue, has submitted before us that hearing of the main Appeal itself is coming up before the learned Tribunal, Chennai Bench, on 29.04.2019.

3. However, learned counsel for the Appellant-Assessee submitted that Hearing Date of the Appeal is now fixed for 23.05.2019 as per the Notice served upon the Assessee.

4. Be that as it may. Having heard the learned counsel for the parties, we are not inclined to interfere with the Interlocutory Order passed by the learned Tribunal in this Appeal filed under Section 260A of the Income Tax Act,1961, as we do not find any Substantial Questions of Law arising for consideration by this Court. The order passed by the learned Tribunal in the Stay Petition essentially remains discretionary.

5. Learned counsel for the Assessee submitted that the Assessee has already paid 28% of the disputed demand under Appeal before the learned Tribunal and that the Assessee is further willing to deposit remaining 22% so as to bring deposit against the disputed demand up to 50% and subject to such deposit the respondent-Department may be directed not to take any coercive measures for recovery of the entire demand.

6. As is stated already, though we would not normally interfere with the Interlocutory Order passed by the learned Tribunal, in view of the aforesaid submission, we order that subject to deposit of 50% of the disputed demand by the Assessee within a period of three weeks from today, which payment shall remain subject to final decision of the learned Tribunal, the respondent-Department shall not take any coercive measures to recover remaining 50% of the demand against the Assessee. We also request the learned Tribunal to decide the Appeal itself as expeditiously as possible, preferably within six months from today.

7. Appeal of the Assessee stands disposed of accordingly. No costs. Consequently, the connected C.M.P.No.5866 of 2019 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dixit

To

1.Income Tax Officer,
Non Corporate Ward - 17 (2),
Room No.506, 5th Floor,
BSNL Building, Greams Road,
Chennai - 600 006.

2.Income Tax Appellate Tribunal,
Chennai 'C' Bench,
Chennai.

3.The Commissioner of Income Tax(Appeals -5),
121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

+1cc to Mr.K.Senguttuvan, Advocate, S.R.No.28397
+1cc to Mr.T.Ravikumar, Advocate, S.R.No.28327

T.C.A.No.221 OF 2019

PA(CO)

RRS(31/05/2019)