IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.3396, 3397, 3652 & 3653 of 2018
and
W.M.P.Nos.31822, 31820, 4482, 4483, 31800, 31804, 4163, 4164 of 2018

W.P.Nos.3396, 3397, 3652 & 3653 of 2018

M/s.Victoria Technical Institute
Represented by its Chief Executive Officer
A.Balasubramanian ...Petitioner in all WPs

vs.

1. The Income Tax Officer (Exemptions) Ward-1
Annexe Buiding, 3rd Floor,
121, M.G.Road,
Chennai-600 034.

2. The Commissioner of Income Tax (Appeals) - 17
Aayakar Bhavan, Main Building
2nd Floor, Room No.220
No.121, Mahatma Gandhi Road,
Chennai-600 034. ...Respondents in all WPs

Writ Petition No.3396 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in PAN:AAATV0291N/2011-2012 dated 07.02.2018 on the file of the 1st respondent relating to the assessment year 2011-2012 and quash the same and direct the 1st respondent to grant stay of collection of outstanding tax demand pending disposal of the appeal before the 2nd respondent.

Writ Petition No.3397 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in PAN:AAATV0291N/2012-2013 dated 07.02.2018 on the file of the 1st respondent relating to the assessment year 2012-2013 and quash the same and direct the 1st respondent to grant stay of collection of outstanding tax demand pending disposal of the appeal before the 2nd respondent.

Writ Petition No.3652 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in PAN:AAATV0291N/2014-2015 dated 15.02.2018 on the file of the 1st respondent relating to the assessment year 2014-2015 and quash the same and direct the 1st respondent to grant stay of collection of outstanding tax demand pending disposal of the appeal before the 2nd respondent.

Writ Petition No.3653 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in PAN:AAATV0291N/2015-2016 dated 12.02.2018 on the file of the 1st respondent relating to the assessment year 2015-2016 and quash the same and direct the 1st respondent to grant stay of collection of outstanding tax demand pending disposal of the appeal before the 2nd respondent.

For Petitioner in all W.P.s : Mr.M.P.Senthil Kumar

For Respondent in all W.P.s : Mrs.Hema Muralikrishnan
Senior Standing Counsel (IT)

C O M M O N   O R D E R

All these writ petitions are filed challenging the conditional orders of stay granted by the Appellate Authority during the pendency of the appeals, wherein and whereby, the petitioner was called upon to pay 20% of the demand as a condition for granting interim stay. The relevant assessment years are 2011-2012, 2012-2013, 2014-2015 and 2015-2016.

2. While these writ petitions were entertained on 16.02.2018 and 20.02.2018, this Court granted an order of interim stay of the impugned orders. The said orders of interim stay still continue.

3. Now, these writ petitions are posted for further hearing after adjourning the matters on several occasions.

4. The learned counsel for the petitioner submitted that the Appellate Authority, in the meantime, has heard the appeals and reserved the same for orders in respect of the assessment years 2014-2015 and 2015-2016 on 23.07.2019 and 21.08.2019 respectively. He further submitted that in respect of other two assessment years viz., 2011-2012 and 2012-2013, the Appellate Authority called for a remand report from the Assessing Officer through his order dated 02.07.2019 and on that stage, the appeals in respect of those two assessment years are still

pending. Therefore, he contended that the Appellate Authority may be directed to dispose of all the appeals, since the petitioner is enjoying the benefit of interim stay from 16.02.2018 and 20.02.2018 respectively and that the Appellate Authority has also heard the other two appeals and reserved the same for orders as stated supra.

5. The learned Senior standing counsel appearing for the Revenue contended that though it is true that the Appellate Authority has reserved the matter for orders in respect of the assessment years 2014-2015 and 2015-2016, he is awaiting for remand report from the Assessing Officer for disposing the other two appeals in respect of the assessment years 2011-2012 and 2012-2013. Therefore, she submitted that the impugned orders granting conditional stay were passed only to protect the interest of the Revenue and therefore, the same need not be interfered with.

6. Heard both sides and considered the facts and circumstances of the present case.

7. It is not in dispute that arising out of the orders of assessment passed by the Assessing Officer in respect of the subject matter assessment years viz., 2011-2012, 2012-2013, 2014-2015 and 2015-2016, regular appeals were filed before the Appellate Authority, who in turn, while granting interim stay has also imposed condition to pay 20% of the demand. It is also not in dispute that this Court, while entertaining these writ petitions, has granted interim stay of the said conditional orders as early as on 16.02.2018 and 20.02.2018 respectively and the said stay is in operation all these days. During pendency of these writ petitions, it is seen that the Appellate Authority has proceeded to hear the appeals and reserved the matter for orders in respect of two assessment years viz., 2014-2015 and 2015-2016 and in respect of other two assessment years viz., 2011-2012 and 2012-2013, it is seen that the Appellate Authority has sought for remand report from the Assessing Officer through his proceedings dated 02.07.2019. Therefore, this Court is of the view that instead of deciding as to whether the orders impugned in these writ petitions are sustainable or not, it is better the Appellate Authority shall pass final orders in the appeals itself at an early date, so that the matter can be given quietus.

8. Accordingly, these Writ Petitions are disposed of, by directing the Appellate Authority to pass orders on the appeals pending before him on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Till the disposal of the appeals, the interim stay

granted by this Court shall be in force. It is made clear that granting of interim stay by this Court during pendency of these writ petitions shall not prejudice the mind of the Appellate Authority in any manner, to construe as though this Court has expressed any view on the merits of the claim made by the Assessee in respect of the appeals pending before the Appellate Authority, as it is for the Appellate Authority to consider and decide the same. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

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+2cc to Mrs.Hema Muralikrishnan, Advocate SR.No.79907, 79909

+2cc to Mr.G.Baskar, Advocate SR.No.79881, 79882

W.P.Nos.3396, 3397,
3652 & 3653 of 2018

RSV(CO)
GMY(10/10/2019)