IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM

The Honourable DR.JUSTICE ANITA SUMANTH

WP. No.9048 of 2019
& W.M.P.No.9586, 9589 & 9591 of 2019

M/s. Summit Online Trade Solutions Pvt.LTd.,
Represented by its Director
Kishor K.Ajmera
No.6.Rayala Towers Ground Floor.,
781-785 Anna Salai,
Chennai 600002 ... Petitioner

-Vs-

The Assistant Commissioner of Income Tax
Central Circle 1(3)
46, M G Road,
Chennai 600 034 ...Respondent

P R A Y E R:- WRIT PETITION under Article 226 of the Constitution in the nature of Certiorari calling for the records relating to the order dated 08.03.2019 made Appeal Effect/CENT CIR/1(3)/2018-19 on the files of the respondent and consequential notice dated 13.3.2019 and 18.03.2019 issued by the respondent under Section 226(3) of the Income Tax Act, 1961.

For Petitioner : T.N.Seetharaman

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

Heard Mr.T.N.Seetharaman and Mr.R.Kumar, learned counsels for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondent.

2. The petitioner seeks the issuance of a writ of certiorari quashing order dated 08.03.2019, giving effect to order dated 22.02.2019 passed by the Commissioner of Income Tax (Appeals) (in short 'CIT(A)').

3. The petitioner has received the order of the CIT(A) dated 22.02.2019 on 11.03.2019 only. It appears that in the meantime,

the order has been received by the Assessing Officer, who has given effect to it on 08.03.2019, even prior to the date of receipt of the appellate order by the petitioner. The impugned order dated 08.03.2019 calls upon the petitioner to pay the tax as computed by the order of the CIT(A) amounting to Rs. 29,34,81,300/- immediately.

4. The Assessing Officer has also issued notices to the banks dated 13.03.2019 attaching the accounts of the petitioner in the Bank of Baroda, Triplicane Branch and HDFC Bank, Anna Salai Branch. Admittedly, the petitioner has paid a sum of Rs.7,35,89,146/- that has been taken into account, while arriving at the present demand of Rs.29,34,81,300/-. A further sum of Rupees Six crores has also been appropriated from the bank accounts as confirmed by Mr.Srinivas upon instructions taken from the respondent assessing officer.

5. The petitioner has a period of sixty (60) from the date of receipt of the order of the CIT(A) to challenge the same before the Income Tax Appellate Tribunal. Thus, the petitioner has time till the 10^{th} of May, 2019 to file an appeal and seek interim protection. I thus believe, in the facts and circumstances of the present case as noticed by me above that the coercive recovery initiated is premature. Seeing as apporixmately 40% of the disputed tax has been collected as on date, and in the light of the narration of facts as above I am of the view that the petitioner may be permitted to file an appeal before the Income Tax Appellate Tribunal (ITAT) along with a petition for stay within a period of four(4) weeks from today. A status quo of recovery as on date shall be maintained for the aforesaid period of four(4) weeks. The attachments on the bank accounts shall stand lifted forthwith. In addition two notices under Section 226(3), have also been issued by the Assessing Officer to M/s. Indian Lottery Distribution Ltd. and M/s.Summit Online Trade Solution Pvt.Ltd, seeking attachment of receivables. The operation of these notices are kept in abeyance for the aforesaid period of four(4) weeks, and will be subject to the orders passed by the Tribunal, on the application for stay, if any, filed by the petitioner. The writ petition is disposed of in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

ska

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner of Income Tax
Central Circle 1(3)
46, M G Road,
Chennai 600 034

2.The Income Tax Appellate Tribunal,
Chennai.

+3CCs to Mr.T.N.Seetharaman, Advocate, SR.No. 4300

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Kak(28/03/2019)