IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.29297 & 29299 of 2019
and
W.M.P.Nos.29097 & 29098 of 2019

Gemini Film Circuit
No.28, New Bangaru Colony
West K.K.Nagar, Chennai-600 078. ..Petitioner in both W.P.s

Vs.

1. The Tax Recovery Officer-10
   3rd Floor, Room 327,
   Aayakar Bhavan, Vanaparthy Block
   121, M.G.Road, Nungambakkam
   Chennai-600 034.

2. The Income Tax Officer
   Non-Corporate Ward 20(5)
   Chennai-600 031.

3. The Commissioner of Income Tax (Appeals)-7
   Room No.218, Main Building, 2nd Floor
   121, Mahatma Gandhi Road,
   Chennai-600 034. ..Respondent in both W.P.s

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents or any of their subordinates, agents, representatives or any other person claiming under/through the respondents to refrain from in any manner seeking to enforce and/or initiate recovery proceedings pursuant to assessment orders dated 18.03.2016 and 03.03.2015 for the assessment years 2008-2009 and 2009-2010 respectively under the Income Tax Act, 1961, till the final hearing and disposal of the appeal pending before the 3rd respondent and the stay petition pending before the 2nd respondent.

For Petitioner in both W.P.s : Mr.Arun Karthik Mohan
For Respondents in both W.P.s : Mr.P.Rajkumar Jhabah
standing counsel

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COMMON ORDER

Mr.P.Rajkumar Jhabah, learned standing counsel takes notice for the respondents. By consent of both the parties, the main writ petitions are taken up for final disposal at the admission stage itself.

2. Both these writ petitions are filed by one and the same writ petitioner, seeking for mandamus directing the respondents to refrain from in any manner seeking to enforce and/or initiate recovery proceedings pursuant to the assessment orders dated 18.03.2016 and 03.03.2015 for the assessment years 2008-2009 and 2009-2010 respectively, under the Income Tax Act, 1961, till the final hearing and disposal of the appeals pending before the 3rd respondent and the stay petitions pending before the 2nd respondent.

3. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents.

4. Since these writ petitions are filed with limited prayer as stated supra, I am not traversing into the facts and circumstances of the case warranting the Assessing Officer to pass the assessment orders, which are admittedly, challenged before the First Appellate Authority and that those appeals are still pending.

5. The grievance of the petitioner before this Court is that when the petitioner has filed statutory appeals before the First Appellate Authority, viz., the third respondent herein and also filed stay petitions dated 19.08.2019 before the second respondent, the authorities are not justified in taking steps to recover the tax due by issuing the proceedings under Section 226 of the Income Tax Act, to the respective banks.

6. The learned standing counsel appearing for the Revenue is not disputing the fact that the appeals filed against the assessment orders as well as the stay petitions filed before the Assessing Officer as stated supra, are still pending. Therefore, he submitted that the Assessing Officer will dispose the stay petitions within the time stipulated by this Court.

7. Considering the above stated facts and circumstances and in view of the fact that the stay petitions dated 19.08.2019 are admittedly, pending before the second respondent/Assessing Officer, this Court is of the view that suffice a direction is issued to the second respondent to dispose the said stay petitions on merits and in accordance with law, so that the

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grievance of the petitioner expressed before this Court can be met out.

8. Accordingly, this Writ Petition is disposed of, only with a direction to the second respondent to dispose the stay petitions dated 19.08.2019 filed in respect of the assessment orders dated 18.03.2016 and 03.03.2015 relevant to the assessment years 2008-2009 and 2009-2010 respectively, on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any view on the merits of the contention raised by the petitioner in respect of the assessment or the grounds of the appeal raised before the Assessing Officer, as it is for the said authority to consider and decide the same. Till an order is passed by the second respondent in the stay petitions as directed supra, no coercive action shall be taken against the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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+2 cc to M/s.Arun Karthik Mohan,Advocate Sr.No. 86039
+1 cc to M/s.Raj Kumar Thabak, Advocate Sr.No.86562

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