IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.30951 of 2019
and
W.M.P.Nos.31043 & 31044 of 2019

M/s.Jaya Educational Trust
Rep. by its Chairman A.Kanagaraj
No.8, II Main Road, Krishnapuram
CTH Road, Thiruninravur
Chennai-602 024. ...Petitioner

Vs.

1.The Principal Commissioner of Income Tax
Central-I
Income Tax Office
Mahatma Gandhi Road, Nungambakkam
Chennai-600 034.

2.The Assistant Commissioner of Income Tax
Central Circle1(2)
Income Tax Office
Mahatma Gandhi Road, Nungambakkam
Chennai-600 034.

3.Indian Overseas Bank
Rep. by its Branch Manager
1B, MTH Road, Krishna Nagar, Ward
No.11, Thirunindravur
Chennai-602 024. ...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in the proceeding in the impugned notice under Section 226(3) dated 22.10.2019 passed by the 2nd respondent in Notice No.ITBA/RCV/S/226(3)-1/2019-20/1019204940(1) and to quash the same.

For Petitioner	:	Mr.R.Singaravelan Senior Counsel for Mr.M.Velmurugan
For Respondents	:	Mr.A.P.Srinivas Senior Standing Counsel for R1 & R2

O R D E R

This writ petition is moved today by way of lunch motion. Challenge made in this writ petition is against the notice issued under Section 226(3) of the Income Tax Act, 1961, attaching the bank account maintained by the writ petitioner before the third respondent Bank for realisation of a sum of Rs.11,10,69,320/- as due from the petitioner on account of income tax arrears.

2. Heard Mr.R.Singaravelan, learned Senior Counsel for the petitioner. Mr.A.P.Srinivas, learned Senior Standing Counsel takes notice for the respondents 1 and 2. Since this Court is inclined to dispose of this writ petition at the admission stage itself, notice to the third respondent is dispensed with.

3. It is seen that in respect of the assessment year 2016-17, the Assessing Officer passed an order of assessment and the petitioner challenged the said order before the First Appellate Authority viz., the Commissioner of Income Tax (Appeals). It is further seen that the Commissioner of Income Tax (Appeals) has dismissed the appeal and thereafter, the petitioner seems to have filed further appeal before the Income Tax Appellate Tribunal and also sought for interim protection from the Revenue against the recovery of the demand. It is stated before this Court that though such interim application was filed before the Tribunal, the same was not considered and on the other hand, it was rejected by the Tribunal. Under such circumstances, the present impugned proceedings is issued on 22.10.2019. Learned Senior Counsel for the petitioner contended that even before the petitioner files further appeal before this Court against the order passed by the Tribunal, the Revenue has chosen to issue the impugned proceedings hurriedly and therefore, this Court has to come to the rescue of the petitioner by exercising its jurisdiction under Article 226 of the Constitution of India.

4. I have given my careful consideration to the above submissions made by the learned Senior Counsel for the petitioner.

5. It is seen that as against the order of assessment, the petitioner filed an appeal before the First Appellate Authority, who in turn dismissed the same. Further appeal before the Tribunal, though is pending, it is an admitted fact that the Tribunal has not granted any interim relief to the petitioner during the pendency of the appeal. When such being the factual position, unless and until the petitioner succeeds in challenging the order passed by the Tribunal in the interim application, before the appropriate Appellate Forum, the Revenue cannot be faulted in issuing the impugned notice under Section

226(3) of the Income Tax Act. Therefore, I find no reason or ground to interfere with such order. Needless to state that it is for the petitioner to work out their remedy against the order passed by the Tribunal in their interim application by filing appropriate proceedings before the appropriate forum. Without doing so, filing the present writ petition, in my considered view, is not the proper course of action. Therefore, I am not impressed upon the reasons/grounds raised in this writ petition for entertaining the same. Thus, without expressing any view on the merits of the claim made by the petitioner, this writ petition is disposed of with the above observations and findings. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

vri

To

1.The Principal Commissioner of Income Tax
Central-I
Income Tax Office
Mahatma Gandhi Road, Nungambakkam
Chennai-600 034.

2.The Assistant Commissioner of Income Tax
Central Circle1(2)
Income Tax Office
Mahatma Gandhi Road, Nungambakkam
Chennai-600 034.

+1 cc to M/s.A.P.Srinivas, Advocate, S.R.No.90444
+1 cc to M/s.M.velmurugan Advocate sr 90356

W.P.No.30951 of 2019

BP(CO)
SSM(31/10/2019)