IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.11.2019
CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

T.C.A.No.902 of 2019

M/s.Jaya Educational Trust,
No.8, II Main Road, Krishnapuram,
C T H Road, Thiruninravur,
Chennai - 602 024.
... Appellant/Petitioner

Vs

The Deputy Commissioner of Income Tax,
Central Circle 1 (2),
Income Tax Office,
Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034. ...Respondent/Respondent

PRAYER: Tax Case Appeal filed under Section 260A of Income Tax Act, 1961 against the order dated 31.10.2019 in Stay Petition No.290/Chny/2019 on the file of the Income Tax Appellate Tribunal 'C' Bench, Chennai for the assessment year 2016-2017 against the proceedings of the principal commissioner of Income Tax, Central-1 chennai in PAN.No.AAATJ0369d, for the assessment year 2016-2017.

For Appellant : Mr.M.Velmurugan

For Respondent : Mr.T.R.Senthil Kumar, Senior Standing Counsel assisted by Mrs.K.G.Usha Rani, Junior Standing Counsel.

J U D G M E N T
(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This Tax Case Appeal has been filed by the assessee against the order of dismissal of stay petition filed by the appellant before the Appellate Tribunal.

2.The appellant filed income tax return for the assessment year 2016-2017, declaring 'Nil' income after claiming exemption under Section 11 of the Income Tax Act. The case was selected for scrutiny under CASS and after enquiry, the assessing officer disallowed the exemption under Section 11 (2) of the Income Tax Act and assessed the income to the tune of Rs.32,52,27,918/- and tax to the tune of Rs.13,90,98,318/-.

3. Against the said order, an appeal has been filed before the Commissioner of Income Tax. The Commissioner of Income Tax has also confirmed the order of the assessing officer and dismissed the appeal. Hence, a representation has been made before the Principal Commissioner of Income Tax. The Principal Commissioner of Income Tax, by order dated 25.09.2019, gave a time schedule to the appellant to pay the amount in equal monthly installments viz., 2,00,00,000/- commencing from the month of October 2019 till February 2020 and the balance amount of 1,10,70,318/- as last payment including interest payable in the month of March 2020 on or before 15.03.2020.

4.The said order is being challenged before the Appellate Tribunal by way of an appeal. In the said appeal, an application for stay of the order passed by the authorities has been taken out. The said stay petition is dismissed. Against the dismissal of the stay petition, the present appeal has been filed.

5.Mr.M.Velmurugan, learned Counsel for the appellant would submit that there is no tax liability on the part of the appellant and there is no necessity to pay the amount and the stay petition should have been decided on merits as the appellant already deposited a sum of Rs.2,80,28,000/- out of Rs.13,90,98,318/- which is more than 20% of the claimed amount.

6.However, Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the respondent would submit that the entire amount is liable to be paid by the appellant. Moreover, the Principal Commissioner of Income Tax had already granted time to pay the amount in installments starting from October 2019 to March 2020 and submitted that the opportunity given has not been utilized by the appellant. He would further contend that the appellant has not pleaded anywhere that he is suffering from financial hardship.

7.In reply, Mr.M.Velmurugan, learned Counsel for the appellant would find fault with the order passed by the Tribunal which gave a finding as if nothing has been paid by the appellant and has submitted a proof for having paid the amount on various dates viz., 12.02.2019, 20.03.2019 and 29.03.2019 to the tune of Rs.2,53,00,000/- in addition to Rs.27,00,000/- which has already said to have been paid by the appellant.

8.After hearing the parties, this Court finds that no question of law is required to be framed in this case. However, taking note of the fact that the appellant has already said to have paid a sum of Rs.2,80,28,000/-, in the interest of justice, this Court directs the appellant to pay a sum of Rs.2,20,00,000/- within a period of one week from the date of receipt of the copy of this order as a condition to stay the proceedings.

9.On compliance of the above condition imposed by this Court by the appellant and on filing a proof for the same by the appellant before the Tribunal, the Tribunal is directed to dispose of the matter within a period of three months thereon.

10.With the above conditions, this Tax Case Appeal is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Deputy Commissioner of Income Tax,
Central Circle 1 (2),
Income Tax Office,
Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.
2.The Principal Commissioner of Income Tax,
Central 1, Chennai

+1 cc to Mr.M.Velmurugan Advocate sr94329

+1 cc to Mr.T.R.Senthilkumar Advocate sr94858

aa15/11/2019