IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.12.2019
CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.35209 of 2019
and
W.M.P.Nos.35996 & 35998 of 2019

Anjli Infra Housing L.L.P.
Rep. by its Designated Partner,
Mr.Narendra C.Maher,
New No.49, Old No.25,
Barnaby Road,
Kilpauk, Chennai - 600 010. ... Petitioner

Vs

1.Income Tax Appellate Tribunal,
'A' Bench,
Chennai - 600 090.

2.Commissioner of Income Tax (Appeals) - 16,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.

3.The Asst.Commissioner of Income Tax,
Central Circle 1 (3),
Chennai - 600 034.

4.Deputy Commissioner of Income Tax,
DCIT Central Circle 1(3),
Chennai - 600 034. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the order dated 29.11.2019 made in S.P.No.317/Chny/2019 in I.T.A.No.3182/Chny/2019 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.Jayesh B.Dolia for Aiyar and Dolia.

For Respondents : Mr.A.N.R.Jayaprathap, Junior Standing Counsel (I.T.).

ORDER

(Order of the Court was delivered by N.KIRUBAKARAN, J)

This Writ Petition has been filed challenging the order of dismissal of the stay petition in the tax case appeal filed before the Tribunal.

2.The petitioner company purchased a property measuring 2.4 Acres from M/s.Asiatic Oxygen Limited, Public Limited Company for a sum of Rs.58,32,75,954/- and the total cost of the property including stamp duty, registration charges, brokerage and commission was Rs.66,85,22,570/-. Subsequently, a raid was conducted by the third respondent and found a piece of paper in which a sum of Rs.80 Crores was mentioned as the cost of the property. Therefore, the Department construed the sale consideration as Rs.80 Crores.

3.The third respondent after issuing notice, added Rs.21.94 Crores as "unexplained income" and brought the amount to tax vide Assessment Order dated 29.12.2016 issued under Section 143(3) read with Section 153C/153A of the Act and the tax demand was Rs.11.59 Crores. Aggrieved by the said assessment order, the petitioner filed an appeal before the Commissioner of Income Tax (Appeals) and the same was rejected. Against the rejection of the said appeal, the petitioner moved an appeal before the Income Tax Appellate Tribunal with a stay petition.

4.The Income Tax Appellate Tribunal rejected the stay petition holding that there is no prima facie case and therefore, the demand cannot be stayed and the petition was dismissed. Against the said dismissal of the stay petition, this present petition has been filed.

5.Heard Mr.Jayesh B.Dolia for petitioner and Mr.A.N.R.Jayaprathap, Junior Standing Counsel (I.T.) for respondents.

6.Taking into consideration that the petitioner has already deposited a sum of Rs.2.96 crores, it is appropriate to direct the petitioner to pay a sum of Rs.1 Crore in three monthly installments before 31st March 2020. On such payment, the order passed by the Assistant Commissioner of Income Tax stands stayed till the disposal of the appeal. Further, the Income Tax Appellate Tribunal is directed to expedite the hearings.

7.In the result, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

1.Income Tax Appellate Tribunal,
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Chennai - 600 034.

4.Deputy Commissioner of Income Tax,
DCIT Central Circle 1(3),
Chennai - 600 034.

+1cc to M/s.Aiyar and Dolia, Advocate, SR.No.129.
+1cc to Mr.A.P.Srinivas, Advocate, SR.No.106467.

W.P.No.35209 of 2019
and
W.M.P.Nos.35996 & 35998 of 2019

GP(CO)
CSR:22/01/2020