BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.14650 of 2019
and
W.M.P.(MD)Nos.11098 and 11099 of 2019

G.Ubaidur Rahman ... Petitioner

Vs.

1.The Tax Recovery Officer-2,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai-625 002.

2.The Assistant Commissioner of Income Tax,
Non-Corporate Circle-3,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in PAN: AAZPU0395D and quash the impugned notice of demand in TRC No.1012-15/TRO-2/MDU/2019-20 dated 18.06.2019 as illegal, arbitrary and devoid of merit and consequentially direct the second respondent to dispose of the petition for stay of collection of taxes dated 08.03.2019 for the assessment years 2012-13 to 2015-16 filed by the petitioner.

For Petitioner : Mr.R.Sivaraman
For Respondents : Mrs.S.Srimathy

ORDER

The writ petitioner challenges the impugned recovery proceedings by way of notice of demand to the defaulters in TRC No.1012-15/TRO-2/MDU/2019-20 dated 18.06.2019, whereby the first respondent certifies that a sum of Rs.14,12,47,111/- with further interest under Section 220(2) of the Income Tax Act has become due from the assessee. The first respondent calls upon the assessee to pay the aforesaid sum within a period of 15 days from the date of receipt of notice under threat of further coercive recovery proceedings.

2. Heard Mr.R.Sivaraman, for the petitioner and Mrs.S.Srimathy, who has accepted notice on behalf of the respondents.

3. By consent of both learned counsel, this matter is disposed of at the stage of admission, seeing as the issue raised falls within a very short compass.

4. The learned Standing Counsel for the Revenue specifically confirms that instructions have been obtained from the respondents in regard to the averments in the writ petition and the relief sought.

5. Orders of assessment for the assessment years 2012-13, 2013-14, 2015-15 and 2015-16 were passed by the second respondent / Assessing Officer on 28.12.2018, that are pending in appeal before the first appellate authority. The petitioner filed a petition seeking stay of recovery of the disputed demand only on 08.03.2019, when proceedings for recovery were initiated for the first time. The stay petition is admittedly pending before the Assistant Commissioner of Income Tax.

6. Insofar as the request for stay has been filed before the authority, a duty is cast upon the authority to dispose the same after hearing the petitioner, in accordance with law.

7. This Writ Petition is thus disposed of with the following directions:-

(i) the petitioner shall appear before the second respondent on 17.07.2019 at 10.30 a.m., with all material in support of the stay petition;

(ii) the stay petition shall be considered and disposed by the Assessing Authority having regard to the existence of *prima facie* case, financial contingency and balance of convenience;

(iii) orders shall be passed within a period of two weeks from 17.07.2019 (i.e., on or before 31.07.2019);

(iv) till the disposal of the stay application as alone, no coercive proceedings for recovery shall be initiated.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

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Bibikulam, Madurai-625 002.

2.The Assistant Commissioner of Income Tax,
Non-Corporate Circle-3,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai.

+1CC TO MR.S.SRIMATHY, Advocate Sr. No.72650
+1CC TO MR.R.SIVARAMAN, Advocate Sr. No.72672

W.P.(MD)No.14650 of 2019

GRC(CO)
TR (18.07.2019) 3P 5C