BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.07.2019
CORAM:
THE HONOURABLE DR.JUSTICE ANITA SUMANTH
W.P.(MD)No.7343 of 2019

P.Sundara Mahalingam ... Petitioner

/Vs./

1. The Commissioner of Income Tax (Appeals),
   O/o. the Commissioner of Income Tax,
   No.2, V.P.Rathinasamy Nadar Road,
   Bibikulam, Madurai-625 002.

2. The Income Tax Officer,
   Ward – 3, Palani Bye Pass Road,
   Kottapatti Post, Dindigul – 624 002.

3. The Branch Manager,
   State Bank of India,
   Ayyampalayam Branch,
   Marudha Nathi Road,
   Ayyampalayam – 624 204,
   Athur Taluk, Dindigul District. ... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to credit a sum of Rs.1,33,000/- to the account of the petitioner bearing Account No.00000030493512912 in the 3rd respondent bank forthwith.

For Petitioner : Mr.J.Lawrance
For R-1 & R-2 : Mrs.S.Srimathy
For R-3 : Mr.C.Karthik

ORDER

The petitioner is an assessee under the provisions of the Income Tax Act, 1961 (in short 'Act). An order of assessment for the year 2016-17 was passed on 19.12.2018 which has been challenged before the Commissioner of Income Tax (Appeals). The appeal is stated to be pending in ITA.No.141/2018-19. Even during the pendency of the appeal, since the petitioner does not appear to have filed stay application before the respondents, coercive recovery was initiated and the bank account of the petitioner in the State Bank of India was attached and a sum of Rs.1,33,000/- appropriated. The assessee / petitioner seeks a mandamus for refund of the aforesaid demand. This prayer is not liable to be granted at this juncture and in the circumstances narrated by the above. However and alternatively, since the learned Standing counsel for the 1st and 2nd respondents does not object to expeditious disposal of the appeal, a mandamus is issued to the first respondent to take ITA.No.141/2018-19 for disposal, hear the petitioner and pass an order on merits, within a period of eight weeks from the date of receipt of a copy of this order.

2. This Court is also not inclined to consider the direction sought for refund of the amount appropriated, seeing as it is only the fraction of the entire demand. However, no further recovery proceedings shall be initiated / continued, pending disposal of the Appeal and the petitioner shall be permitted to operate his account presently under attachment.

3. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Commissioner of Income Tax (Appeals),
   O/o. the Commissioner of Income Tax,
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   Bibikulam, Madurai-625 002.

2. The Income Tax Officer,
   Ward - 3, Palani Bye Pass Road,
   Kottapatti Post, Dindigul - 624 002.

+1 CC to M/s.S.SRIMATHY, Advocate (SR-78415[F] dated 30/07/2019)
+1 CC to Mr.C.KARTHIK, Advocate (SR-78497[F] dated 30/07/2019)
+1 CC to Mr.J.LAWRANCE, Advocate (SR-78649[F] dated 30/07/2019)

Order made in
W.P.(MD)No.7343 of 2019
Dated:29.07.2019

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MK (06.09.2019) 2P 6C