IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.02.2020
CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH
Writ Petition No.3952 of 2020
and WMP No.4692 of 2020

Chandrasekaran Rajashekaran
.... Petitioner

Vs

1.The Assessing Officer,
The Office of the Deputy Commissioner of Income Tax,
Non Corp Circle 8(1),
Room No.507, Annexe Building - V floor,
Aayakar bhawan - Annexe Building,
M.G.Road, Nungambakkam, Chennai -34.

2.The Commissioner of Income Tax - Appeals- 9,
Aayakar Bhawan - Annexe Building,
M.G.Road, Nungambakkam, Chennai -34.

3.State Bank of India,
Anna Nagar (West) Branch,
Y 221, 2nd Avenue, Anna Nagar (West),
Chennai -40.
.... Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari to call for the records relating to the Order bearing No.ITBA/COM/F/17/2019-20/1024544367(1) dated 31.01.2020 posted on 10.02.2020 and received by the Petitioner on 12.02.2020 and quash the same.

For Petitioner : Mr.P.J.Rishikesh
For Respondents : Mrs.Hema Muralikrishnan,
Senior Standing Counsel for R1 & R2

ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel accepts notice for the first and second respondents. Since the third respondent is not a contesting party, I do not deem it necessary to issue notice to it.

2. By consent expressed by both learned counsel, this Writ Petition is disposed finally even at the stage of admission.

3. The petitioner has challenged coercive recovery proceedings and sought a Writ of Certiorari to call for and quash order dated 31.01.2020, which is a notice issued under Section 226(3) of the Income Tax Act, 1961 to the Manager, State Bank of India for attachment of bank account for recovery of disputed arrears of tax and interest due from the petitioner.

4. Admittedly, the petitioner has suffered an order of assessment dated 05.12.2019 that has been passed to the best of the Assessing Officers' judgment under Section 144 of the Act in relation to Assessment Year (AY) 2017-18. Despite notices issued, the petitioner had not participated in the proceedings for assessment, leading to the passing of the exparte order, raising a demand.

5. The petitioner has challenged the assessment by way of statutory appeal pending before the Commissioner of Income Tax (Appeals)/R2. An application for interim stay of collection has been filed before the Assessing Officer. Both the appeal and stay application are, admittedly pending. The impugned order of attachment dated 31.01.2020, has been issued by the Assessing Officer/R1 even prior to the filing of the Stay application on 06.02.2020.

6. In the light of the aforesaid narration, it would suffice that the following directions are issued:

i) While the attachment of the bank account under impugned order dated 31.01.2020 will continue, the balance in the account shall not be appropriated.

ii) The petitioner is granted liberty to approach R2 for early and expeditious disposal of the appeal

iii) The petitioner will appear before R1 on Monday, the 24th of February, 2020 at 10.30 a.m. without expecting any further notice in this regard. After hearing the petitioner, orders shall be passed on the Stay application within a period of two weeks thereafter, i.e., on or before 05.03.2020.

7. The Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

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+1cc to Mr.P.J.Rishikesh, Advocate sr.14715
+1cc to Mrs.Hema Muralikrishnan, Advocate sr.14726

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rji(co)
nr 21/02/2020