IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.6220 of 2020
and
WMP.Nos.7314 & 7315 of 2020

SRM Engineering Construction Corporation Limited,
Rep. by its Chief Executive Officer,
Mr.S.Ramesh Babu.

... Petitioner

Vs.

1. The Deputy Commissioner of Income Tax,
   Central Circle 1(3),
   3rd Floor, Director General of Income Tax,
   New Income Tax Building,
   No,46, (Old No.108), Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

2. The Principal Commissioner of Income Tax,
   Central-1, Room No.301,
   New Building - 3rd Floor,
   No.46, (Old No.108), Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

3. The Commissioner of Income Tax (Appeals) - 18,
   3rd Floor, New Income Tax Building,
   No.46, (Old No.108),
   Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in DIN & Order No.ITBA/AST/S/143(3)/2019-20/1023494227(1) dated 31.12.2019 on the file of the first respondent relating to the A.Y.2017-18, quash the same and direct the respondents to grant stay of collection of outstanding tax demand pending disposal of the appeal before the third respondent.

For Petitioner : Mr.G.Baskar

For Respondents : Mr.A.N.R.Prathap, GA (T)

ORDER

Challenging the order dated 31.12.2019 passed by the first respondent relating to the assessment year 2017-18, the petitioner has come up with this writ petition. A consequential direction has also been sought by the petitioner to the respondents not to collect the outstanding tax till the disposal of the appeal by the third respondent.

2.The facts leading to the filing of this writ petition are as follows:

The petitioner are engaged in the business of constructions. In respect of the assessment year 2017-18, they filed its returns on 31.10.2017. After scrutiny of the same, notice was issued, to which, the petitioner duly furnished all the informations. However, the first respondent passed the impugned order on 31.12.2019, assessing the taxable income at Rs.122,60,73,790/- and raised a demand to the tune of Rs.51,40,08,788/-. Aggrieved over the same, the petitioner filed an appeal before the third respondent and the same is pending. While so, without issuing any communication to the petitioner, the first respondent issued two notices to the petitioner's bankers directing them to pay the demanded amount held in the account of the petitioner. Subsequently, those two bank accounts were frozen and garnishee proceedings were also initiated. Immediately, the petitioner sent a letter dated 13.02.2020 to the first respondent requesting to lift the attachments. It was stated in the said communication that the petitioner is ready to pay a sum of Rs.10,28,01,758/- representing 20% of the disputed tax. Consequently, as per the direction of the first respondent, the petitioner paid a sum of Rs.5,14,00,000/- on different dates. Thereafter, they filed a stay application before the third respondent. However, the second respondent vide order dated 28.02.2020, directed the petitioner to pay 20% of the disputed tax for staying the collection of further demand. In such circumstances, the petitioner has approached this Court with this writ petition.

3.Today, when the matter was taken up for consideration, the learned counsel for the petitioner, on instructions, submitted that the petitioner is now, ready and inclined to pay the balance 10% of the disputed tax, in three equal instalments, as they already paid a sum of Rs.5,14,00,000/- towards 10% of the disputed tax. Hence, the learned counsel restricted the relief sought in this writ petition to the effect of seeking a direction to the respondents to accept the payment of 10% of disputed tax to be made by the petitioner in three equal instalments, for the purpose of considering the stay application by the third respondent.

4.The learned Government Advocate (T) appearing for the respondents has no serious objection in granting such relief to the petitioner.

5.Considering the limited nature of the relief now sought by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondents, this Court permits the petitioner to pay the 10% of disputed tax in three equal instalments i.e., the first instalment on 25.03.2020, second instalment on 05.04.2020 and the third instalment on 05.06.2020. On such payment being made, the respondents shall accept the same and proceed further, in accordance with law, for the speedy disposal of the appeal said to be pending.

6.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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+1cc to M/s.G.Baskar, Advocate, Sr.No.21337
+1cc to Mr.A.P.Srinivas, Advocate, Sr.No.22064

W.P.No.6220 of 2020
and
WMP.Nos.7314 & 7315 of 2020

RK(CO)
GS(02/06/2020)