

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 41087 and 41088 of 2015

and

W.P. No. 6293 of 2016

and

M.P. Nos. 1, 1 and 2 of 2015

and

W.M.P. No. 5599 of 2016

W.P. No. 41087 of 2015:-

M/s. Akshya Infrastructure Private Limited,
Represented by its Director,
Mr. Chintamani Padhi,
Reg. Office at 414, Bharathi Street,
Puducherry - 605 001
Corporate Office at
Sai Subodaya Apartment,
57/2B, East Coast Road,
Thiruvananthapuram, Chennai - 600 041.

...Petitioner

-vs-

1. The Commissioner of Income Tax,
Chennai.
2. The Deputy Commissioner of Income Tax,
Puducherry Circule,
D.P. Thottam, Muthialpet,
Puducherry - 605 003.
3. The Branch Manager,
Axis Bank Limited,
Virugambakkam Branch,
69, Arcot Road,
Virugambakkam,
Chennai - 92.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the Second Respondent to quash the impugned notice in PAN. AANCS4080J dated 26.06.2015 u/s. 226 (3) of the Income Tax Act, 1961 and consequently

directed to refund of the money recovered from the Third Respondent bank account forthwith.

For Petitioner : Mr. R. Sivaraman

For Respondent : Mr. A.P. Srinivas (for R1 & R2)
Standing Counsel
Mr. Noyal James
for Mr. V.V. Sivakumar (for R3)

W.P. No. 41088 of 2015:-

M/s. Akshya Infrastructure Private Limited,
Represented by its Director,
Mr. Chintamani Padhi,
Reg. Office at 414, Bharathi Street,
Puducherry - 605 001
Corporate Office at
Sai Subodaya Apartment,
57/2B, East Coast Road,
Thiruvannamiyur, Chennai - 600 041.

...Petitioner

-vs-

1. The Commissioner of Income Tax,
Chennai.
2. The Deputy Commissioner of Income Tax,
Puducherry Circule,
D.P. Thottam, Muthialpet,
Puducherry - 605 003.
3. The Branch Manager, सत्यमेव जयते
Axis Bank Limited,
Virugambakkam Branch,
69, Arcot Road,
Virugambakkam,
Chennai - 92.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the communication of the Second Respondent issued to the Petitioner dated 07.09.2015 and quash the same in so far it blocks the A/c No. 911020054279565, 909020041454231, 910020018212163 and 914040040967350 of the

Petitioner held in the Third Respondent Bank in respect of PAN.
AAHCA6944K.

For Petitioner : Mr. R. Sivaraman

For Respondent : Mr. A.P. Srinivas (for R1 & R2)
Standing Counsel
Mr. Noyal James
for Mr. V.V. Sivakumar (for R3)

W.P. No. 6293 of 2016:-

M/s. Axis Bank Limited,
Represented by its Branch Head and Deputy Vice-
President, Ms. N. Anitha,
No. 2/8, I Cross Street,
Lambert Nagar, Alwarthirunagar,
Virugambakkam, Chennai - 600 092. ...Petitioner

-vs-

1. The Deputy Commissioner of Income Tax,
Puducherry Circle, - I,
Pondicherry,
D.P Thottam, Muthialpet,
Pondicherry - 605 003.
2. M/s. Akshya Infrastructure Private Limited,
First Floor, Sai Subhodaya Apartments,
No. 57/2B, East Coast Road,
Thiruvanmiyur, Chennai - 600 041.
3. M/s. Mothilal Oswal Investment Advisors Private Limited,
2nd Floor, Palm Springs Centre,
Palm Court Complex,
New Link Road,
Mumbai - 400 064.
4. Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A,
G Block, Bandra Kurla Complex,
Bandra (East), Mumbai - 400 051. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the First Respondent herein culminating in the order dated 11.02.2016 and quash the same.

For Petitioner : Mr. Noyal James

For Respondent : Mr. A.P. Srinivas (for R1)
Standing Counsel

Mr. R. Sivaraman (for R2)
No Appearance (for R3 and R4)

COMMON ORDER
(through video conference)

Heard Mr. R.Sivaraman, Learned Counsel for the Petitioner in W.P.Nos. 41087 and 41088 of 2015 and Second Respondent in W.P. No. 6293 of 2016, Mr. Noyal James, Learned Counsel for the Petitioner in W.P. No. 6293 of 2016 and Third Respondent in W.P. Nos. 41087 and 41088 of 2015 and Mr. A.P.Srinivas, Learned Standing Counsel appearing for the First and Second Respondents in W.P. Nos. 41087 and 41088 of 2015 and First Respondent in W.P. No. 6293 of 2016 and perused the materials placed on record, apart from the pleadings of the parties.

2. It is borne out from the record that M/s. Stylog Infrastructure Private Limited had owed income tax dues for which the Deputy Commissioner of Income Tax, Puducherry, demanded payment by an order dated 31.03.2015 passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act' for short). As the said Company did not make payment of that amount, recovery measures were initiated and notice dated 26.06.2015 under Section 226(3) of the Act was issued to M/s. Akshaya Infrastructure Private Limited, the Petitioner in W.P. Nos. 41087 and 41088 of 2015 to pay forthwith any amount due to the said Company or held for or on account of that assess upto the amount of the arrears. Inasmuch as the Petitioner in W.P. Nos. 41087 and 41088 of 2015 had not complied with that demand made, it was treated as an assessee in default in terms of Section 226(3)(x) of the Act and notices dated 07.09.2015 and 11.02.2016 under Section 226(3) of the Act was issued to its banker, viz., Axis Bank Limited, the Petitioner in W.P. No. 6293 of 2016. These Writ Petitions challenge the said Orders dated 26.06.2015, 07.09.2015 and 11.02.2016 passed by the Deputy Commissioner of Income Tax, Puducherry.

3. It is brought to notice that after the filing of the Writ Petition, assessment of liability for income tax of M/s. Stylog Infrastructure Private Limited has been set aside by Income Tax Tribunal and the matter had been remitted for fresh determination and thereafter, another order of assessment has been passed on 06.02.2020 raising fresh demand for payment against which the said Company has filed appeal before the Commissioner of Income Tax (Appeal) on 20.10.2020, which is pending.

4. In view of the subsequent events after the filing of the Writ Petition, the impugned orders raising demand for payment from Petitioners based upon the assessment orders of M/s. Stylog Infrastructure Private Limited cannot survive and accordingly, the same are set aside. However, this would not preclude the concerned authority to pursue the claim for recovery based on the fresh assessment in the manner recognized by law.

5. The Writ Petitions are disposed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

vjt

To

1. The Commissioner of Income Tax,
Chennai.
2. The Deputy Commissioner of Income Tax,
Puducherry Circule,
D.P. Thottam, Muthialpet,
Puducherry - 605 003.
3. The Branch Manager,
Axis Bank Limited,
Virugambakkam Branch,
69, Arcot Road,
Virugambakkam,
Chennai - 92.

4. The Chairman,
Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A,
G Block, Bandra Kurla Complex,
Bandra (East), Mumbai - 400 051.

+2cc to Mr.A.P.Srinivas, Advocate, SR.No.36825

+1cc to Mr. Chethan Sagar, Advocate, SR.No.36978

W.P. Nos. 41087 and 41088 of 2015
and

W.P. No. 6293 of 2016

LN(CO)
KKV/03/12/2020



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