IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.12323, 12326, 12329 & 12332 of 2020
and WMP.Nos.15153, 15154, 15158, 15159,
15139, 15140, 15145 & 15147 of 2020

M/s. Real Talent Engineering Private Limited
67 Chamiers Road Chennai 600 028
Rep by its Director shri P.S. Dasarathy
.. Petitioner in all WPs

Vs.

1.The Deputy Commissioner
of Income Tax Corporate Circle 5 (1)
No.121 Nungambakkam High Road Chennai 600 034

2.The Commissioner of Income Tax (Appeals) 3
No. 121 Nungambakkam High Road
Chennai 600 034 .. Respondents 1 & 2 in all WPs

3.The Manager
Karur Vysya Bank 74 South Vannier Street
Sholingur Vellore District 631 102 ..3rd Respondent in
WP.Nos.12323, 12329 and 12332
of 2020

4 The Manager
State Bank of India Arakonam Road
Sholinghur Vellore District 631 102.
.. 4th Respondent in WP.12323/2020
and 3rd Respondent in WP.12326/2020

Prayer in WP.No.12323/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st Respondent in PAN AACR3651H and quash the impugned assessment order passed by the 1st Respondent u/s. 144 r.w.s 143(3) dated 30.12.2019 for the assessment year 2017-18 in DIN and order No. ITBA / AST / S / 144 / 2019-20 / 1023451092 (1) and direct the 1st respondent to pass fresh assessment order after giving sufficient opportunity to the petitioner.

Prayer in WP.No.12326/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the Garnishee notice u/s. 226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA / CV / S 226 (3) 1 / 2019 - 20 / 1026672399 (1) and direct the 1st Respondent from initiating recovery proceedings Assessment year 2017-18 till the disposal of the appeal by the 2nd Respondent.

Prayer in WP.No.12329/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the impugned Garnishee notice u/s. 226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA / RCV / S 226 (3) 1 / 2019 - 20 / 1026672412 (1) and direct the 1st Respondent from initiating recovery proceedings Assessment year 2017-18 till the disposal of the appeal by the 2nd Respondent.

Prayer in WP.No.12332/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the impugned Garnishee notice u/s. 226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA / RCV / S 226 (3) 1 / 2019 - 20 / 1026672405 (1) and direct the 1st Respondent from initiating recovery proceedings Assessment year 2017-18 till the disposal of the appeal by the 2nd Respondent.

For Petitioner : Mr.Vijayaraghavan

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

COMMON ORDER

Heard Mr.Vijayragavan, learned counsel for the petitioner and Mrs.Hema Muralikrishnan, leraned Senior Standing Counsel.

2. The challenge in W.P.No.12323 of 2020 is to an order of assessment for the assessment year (AY) 2017-18 passed under the provisions of the Income Tax Act, 1961 (in short 'Act') in and to coercive recovery proceedings initiated by way attachment of bank account in the other three writ petitions.

3. Mrs. Hema Muralikrishnan, learned Senior Standing Counsel is armed with instructions to proceed with the matter and thus by consent expressed by both learned counsel, these matters are taken up for final hearing even at this stage.

4. The petitioner has rightly challenged the impugned orders of assessment by way of statutory appal before the Commissioner of Income Tax (Appeals) as early as in March, 2020. Inter alia, an application for stay as well as an

application for rectification of mistakes under Section 154 of the Act are also stated to have been filed. All three are yet pending. Though several issues are raised in the grounds, the primary ground agitated before me is the violation of principles of natural justice.

5. However, as the petitioner has availed statutory appellate remedy, I am not inclined to interfere in the order of assessment and all grounds and issues are left open to be agitated in appeal.

6. The respondent Assessing Officer has, pending stay application before the Assessing Officer, not only attached the bank account but has also recovered some portion of the disputed demand.

7. To balance of interest of both parties the following directions are issued;

(i) The petitioner will be heard on the stay application by the Assessing Officer on Thursday the 17th of September, 2020 at 10.30 a.m. either over video conference or by way of physical hearing as may be mutually convenient, without expecting or anticipating any further notice in this regard.

(ii) After hearing the petitioner on the stay application, appropriate orders will be passed in accordance with law within a period of two weeks thereafter that is on or before 01.10.2020.

(iii) While the attachment of the bank account will continue, it is made clear that no further amount will be appropriated therefrom.

8. These writ petitions are disposed in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

11.09.2020

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These matters having been posted for clarification on 23/09/2020 and upon hearing along with Wps.12268,12274 & 12283/20 the arguments of Mr.Vijayaraghavan, Advocate for the petitioners & of Mrs.Hema Muralikirshnan, Senior Standing Counsel for the Respondent, the court passed the following order:

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.12323, 12326, 12329, 12268, 12332, 12274 and 12283 of 2020
and
WMP. Nos.15154, 15158, 15159, 15139, 15140, 15145, 15147 and 15153,
15060, 15067, 15071, 15051, 15082 and 15080 of 2020

M/s. Real Talent Engineering Private Limited,
67, Chamiers Road,
Chennai 600 028,
Rep by its Director Shri P.S.Dasarathy
.. Petitioner in all Wps

Vs.

The Deputy Commissioner of Income Tax,Corporate Circle,
5(1) No.121, Nungambakkam High Road,
Chennai 600 034.

.. Respondent/1st Respondent in all WPs

1 The Deputy Commissioner
of Income Tax Corporate Circle 5 (1)
No.121 Nungambakkam High Road Chennai 600 034

2 The Commissioner of Income Tax (Appeals) 3
No. 121 Nungambakkam High Road
Chennai 600 034
..2nd Respondents in W.P. Nos.12323,12326,12329, 12332 of 2020

3 The Manager
Karur Vysya Bank 74 South Vannier Street
Sholingur Vellore District 631
..3rd Respondent in WP.Nos.12323, 12329 and 12332 of 2020

4 The Manager
State Bank of India Arakonam Road
Sholinghur Vellore District 631 102.
.. 4th Respondent in WP.12323/2020
and 3rd Respondent in WP.12326/2020

Prayer in WP.No.12323/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of

Certiorarified Mandamus to call for the records of the 1st Respondent in PAN AAACR3651H and quash the impugned assessment order passed by the 1st Respondent u/s. 144 r.w.s 143(3) dated 30.12.2019 for the assessment year 2017-18 in DIN and order No. ITBA / AST / S / 144 / 2019-20 / 1023451092 (1) and direct the 1st respondent to pass fresh assessment order after giving sufficient opportunity to the petitioner.

Prayer in WP.No.12326/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the Garnishee notice u/s. 226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA / CV / S 226 (3) 1 / 2019 - 20 / 1026672399 (1) and direct the 1st Respondent from initiating recovery proceedings Assessment year 2017-18 till the disposal of the appeal by the 2nd Respondent.

Prayer in WP.No.12329/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the impugned Garnishee notice u/s. 226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA / RCV / S 226 (3) 1 / 2019 - 20 / 1026672412 (1) and direct the 1st Respondent from initiating recovery proceedings Assessment year 2017-18 till the disposal of the appeal by the 2nd Respondent.

Prayer in WP.No.12332/2020: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent and quash the impugned Garnishee notice u/s. 226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA / RCV / S 226 (3) 1 / 2019 - 20 / 1026672405 (1) and direct the 1st Respondent from initiating recovery proceedings Assessment year 2017-18 till the disposal of the appeal by the 2nd Respondent.

Prayer in 12268 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the first respondent and quash the Garnishee Notice U/s226(3) of the Act dated 16.03.2020 in DIN and Notice No. ITBA/RCV/S/226(3)-1/2019-20/1026671045(1) and forbear the first respondent from initiating recovery proceedings till the disposal of the petition filed Under Section 154 of Act for the assessment year 2008-09 to 2012-13 and 2014-15, 2016-17 and 2017-18.

Prayer in 12274 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the first respondent and quash the Garnishee Notice U/s.226(3) of the

Act dated 16.03.2020 in DIN and Notice No. ITBA/RCV/S/226(3)-1/2019-20/1026670655(1) and forbear the respondent from initiating recovery proceedings till the disposal of the petition filed Under Section 154 of Act for the assessment year 2008-09 to 2012-13 and 2014-15, 2016-17 and 2017-18.

Prayer in 12283 of 2020: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the respondent and quash the Garnishee Notice U/s226(3) of the Act dated 16.03.2020 in DIN and Notice No. /RCV/S/226(3)-1/2019-20/1026670660(1) and forbear the respondent from levying penalty till the disposal of the petition filed Under Section 154 of Act for the assessment year 2008-09 to 2012-13 and 2014-15 2016-17 and 2017-18.

For Petitioner : Mr.Vijayaragavan

For Respondents: Ms.Hema Muralikrishnan,
Senior Standing Counsel for all Wps

COMMON ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel today confirms that the assessments of the petitioner now vest with the Deputy Commissioner of Income Tax, Large Tax Payer Unit (LTUI) (i).

2. The petitioner will appear before the aforesaid Officer on Monday, the 28th of September, 2020 either over video conference or by way of physical hearing, as may by mutually convenient to the parties to be confirmed in advance to the petitioner. The petitioner will be heard on the Stay Application filed for the Assessment Year 2017-18, where the appeal is pending before the Commissioner of Income Tax (Appeals). Learned counsel for the petitioner states that an application under section 154 for rectification has also been filed for this year. Let the same be also taken into consideration and disposed at this juncture.

3. The applications for rectification under Section 154, filed in respect of Assessment Years 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2014-15 and 2016-17, will also be taken up for consideration on the same date as above and disposed.

4. Let the stay application as well rectification applications be disposed within a period of four weeks from 28.09.2020.

5. With the above directions, order dated 11.09.2020 passed in Writ petition Nos.12323, 12326, 12329 & 12332 stands

clarified and Writ Petition.Nos.12268, 12274 and 12283 of 2020 disposed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1 The Deputy Commissioner
of Income Tax Corporate Circle 5 (1)
No.121 Nungambakkam High Road Chennai 600 034

2 The Comissioner of Income Tax (Appeals) 3
No. 121 Nungambakkam High Road
Chennai 600 034

3 The Manager
Karur Vysya Bank 74 South Vannier Street
Sholingur Vellore District 631 102

4 The Manager
State Bank of India Arakonam Road
Sholinghur Vellore district 631 102

+2cc to M/s.Subbaraya Aiyar Padmanabhan,
Advocate SR.31080, 31081

W.P. Nos.12323, 12326, 12329, 12268, 12332, 12274 and 12283 of 2020
and
WMP. Nos.15154, 15158, 15159, 15139, 15140, 15145, 15147 and 15153, 15060, 15067, 15071, 15051, 15082 and 15080 of 2020

SVI(CO)

CB(28/09/2020)