IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.11.2020
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
Writ Appeal No.1027 of 2020 & CMP.No.12567 of 2020

The Principal Commissioner of
Income Tax, Central Circle-2,
Chennai-34 ...Appellant/Respondent/
Respondent
Vs
Sri Lakshmi Ammal Educational
Trust, rep.by its Managing
Trustee Mr.Sundeep Aanand ...Respondent/Petitioner/
Petitioner

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 23.3.2020 made in WMP.No.8483 of 2020 in W.P.No. 7116 of 2020.

WP.No.7116 of 2020:filed under Article 226 of the Constitutio of India Calling for the records on the file of the respondent in PAN. AABTS1129F in passing the impugned order in ITBA/COM/F/17/2019-20/102661587(1) dated 14.03.2020 under section 12AA(3) of the Income Tax Act 1961 and quash the same as illegal arbitrary.

WMP.No.8483 of 2020:This petition praying to grant an interim stay of all further proceedings pursuant to the impugned order in ITBA/COM/F/17-2019-2020/1026615871(1) dated 14/03/2020 passed by the Respondent pending disposed of this Writ Petition.

For Appellant: Mr.A.P.Srinivas, SSC
For Respondent: Mr.R.Sivaraman

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the appellant/Revenue and Mr.R.Sivaraman, learned counsel accepting notice for the respondent - assessee.



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2. This appeal is directed against the order passed by the learned Single Judge dated 23.3.2020 granting an order of interim stay for a limited period and directing the appellant - Department to file their counter affidavit.

3. W.P.No.7116 of 2020 has been tagged along with another writ petition filed by the respondent - assessee in W.P.No.10707 of 2019 challenging an order passed by the Income Tax Settlement Commission, Additional Bench, Chennai rejecting the application filed by the assessee by passing an order under Section 245D(2C) of the Income Tax Act, 1961.

4. Admittedly, what was challenged in this appeal is not a final order in the miscellaneous petition to enable the appellant - Revenue to maintain a writ appeal against that order. In other words, it is not a final order to enable the appellant - Revenue to invoke the intra-court appeal under Clause 15 of the Letters Patent. This legal position cannot be disputed by the appellant - Revenue.

5. The learned counsel appearing for the respondent - assessee would submit that the interim order already granted was extended, that W.P.No.7116 of 2020 was tagged along with W.P.No.10707 of 2019, that the cases were heard on various dates, that the last date of hearing was on 05.9.2020 and that the cases are to be listed shortly.

6. Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the appellant - Revenue submits that there are several decisions of the Hon'ble Division Benches, which held that even an order ordering only notice is appealable under Clause 15 of the Letters Patent.

7. In our considered view, we are of the view that since the writ petitions have been substantially heard by the learned Single Judge, we are not inclined to entertain this writ appeal.

8. Considering all these facts and the fact that the impugned order is only an interim order, we hold that the writ appeal filed by the appellant - Revenue is not maintainable against the impugned order and the writ appeal has to be necessarily rejected as not maintainable.



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9. Accordingly, the above writ appeal is dismissed. We make it clear that we have not expressed any opinion on the merits of the matter and it will be open to both the appellant as well as the respondent to make a request to the concerned learned Single Judge for early hearing of the writ petitions and all issues are left open. No costs. Consequently, the connected CMP is closed.

Sd/-
Assistant Registrar

/true copy/
Sub Asst. Registrar

RS

To
The Principal Commissioner of Income Tax,
Central Circle-2, Chennai-34

+1 cc to Mr.A.P.Srinivas Advocate sr37343

WA.No.1027 of 2020&
CMP.No.12567 of 2020

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