IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.16110 of 2020 &

WMP.Nos.20081 & 20082 of 2020

M/s.DAR Paradise Private Limited
Represented by its Director D.R. Ragunath
599 Raja Street Coimbatore
Coimbatore- 641 001. …Petitioner

Vs

1 Deputy Commissioner of Income Tax
Corporate Circle 2,
63 Race Course Road Coimbatore 641 018.

2 Principal Commissioner of Income Tax 1,
63 Race Course Road Coimbatore- 641 018

3 The Commissioner of Income Tax (Appeals-1),
Coimbatore. …Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent relating to the application made by the Petitioner for stay of demand for the assessment year 2017-18 and quash the order of the second Respondent in C.NO. 117/PCIT-1/CBE/AAFCD3066P/2019-20 dated 25.09.2020 and direct the Respondents 1 to 3 not to treat the Petitioner as an assessee in default pending disposal of the appeal filed by the Petitioner before the Commissioner of Income Tax(Appeals) Coimbatore the Third Respondent herein.

For Petitioner : Mr.Thanjai P.N.Chezhian

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

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O R D E R

Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter.

2. The challenge is to an order dated 25.09.2020, where R2 has disposed an application for stay of disputed demand arising from order of assessment dated 30.12.2019, passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act') for assessment year 2016-17. The assessment is pending in statutory appeal before the 3rd respondent/ The Commissioner of Income Tax (Appeals), Coimbatore.

3. The petitioner had challenged an order dated 09.03.2020 rejecting its stay application even earlier before this Court in W.P.No.7155 of 2020. This Court, vide order dated 21.08.2020 set aside order dated 09.03.2020 on the ground that the stay application had not been considered in proper perspective and had directed R2 to pass a speaking order after taking into account all relevant considerations. It is pursuant thereto that the impugned order dated 25.09.2020 has been passed directing the petitioner to remit only 20% of the disputed tax.

4. There is no legal infirmity in the order passed. When this was pointed out to the learned counsel for the petitioner, he would state that he does not press the writ petition but only requests that the statutory appeal be directed to be disposed within a fixed time frame.

5. On instructions, Mr.Srinivas suggests that twelve (12) weeks may be granted for disposal of the appeal. Accordingly while dismissing this writ petition, R3/ The Commissioner of Income Tax (Appeals), Coimbatore is directed to dispose the statutory appeal filed on 08.01.2020 within a period of twelve (12) weeks ensuring that the petitioner has complied with the directions of R2 in order dated 25.09.2020 prior to taking up the appeal. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Page numbers

Ska/Sl

To

1.Deputy Commissioner of Income Tax
Corporate Circle 2,
63 Race Course Road Coimbatore 641 018.

2.Principal Commissioner of Income Tax 1,
63 Race Course Road Coimbatore- 641 018

3.The Commissioner of Income Tax (Appeals-1),
Coimbatore.

+1cc to Mr.Thanjai P.N.Chezhian, Advocate SR.36514
+1cc to Mr.AP.Srinivas, Advocate SR.36456

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BR(CO)

CB(11/12/2020)