IN HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.9505 of 2016
and
W.M.P.No.8550 of 2016

M/s. Pawan Green Channels Pvt. Ltd.,
Represented by its Managing Director,
Mr. V.R.Raghunathan,
son of V.S.Rajagopal, No.16,
Cenatoph Road, Teynampet,
Chennai – 600 018. ...Petitioner

Vs.

1.Tax Recovery Officer-5,
Office of the Principal Commissioner
Income Tax – 5,
5th Floor Room, 562 'D' Cabin,
Wanaparthy Block, 121,
Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

2.The Commissioner of Income Tax (Appeals) – V,
121, Nungambakkam High Road,
Chennai – 600 034. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in T.R.No.72/P/2013-14 dated 01.03.2016 relating to the Assessment Years 2003-04 to 2005-06 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Baskar

For Respondents: Mr.Prabhu Mukunth Arun Kumar,
Junior Standing Counsel for
M/s.Hema Muralikrishnan
Standing Counsel.

O R D E R

In this Writ Petition, the petitioner has challenged the impugned notice dated 01.03.2016 bearing reference T.R.No.72-P/2013-14 issued by the 1st respondent seeking to recover the arrears of tax for the Assessment Years 2003-04 to 2005-06.

2. As per the impugned notice, the petitioner's appeals before Commissioner of Income Tax (Appeals)-V vide ITA.Nos.763, 764, 765/13-14, were disposed on 29.01.2014, and since the petitioner failed to receive the same, it has called upon the petitioner to pay a sum of Rs.1,80,75,507/- along with interest as per Rule 5 of the Income Tax Rules, 1962 in view of the dismissal appeals.

3. According to the petitioner, the orders passed by the Commissioner of Income Tax (Appeals) - V, were not served on it. It is therefore submitted that the recovery proceedings initiated vide impugned notice / communication dated 01.03.2016 was liable to be quashed.

4. It is noticed that the present Writ Petition has been filed on 10.03.2016. The petitioner had obtained an interim stay on 15.03.2016 and nothing further has progressed since then. No counter has also been filed on behalf respondents. On the other hand, the respondents taken time for filing counter and producing the records.

5. I find no reasons to adjourn the case any further. I therefore dispose this Writ Petition with a direction to the respondents to furnish the copy of the orders of the Commissioner of Income Tax (Appeals)-V to the petitioner through the learned counsel appearing for the petitioner herein within a period of fifteen days from the date of receipt of a copy of this order.

6. On such copy of the orders being served on the petitioner, liberty is given to the petitioner to file appropriate appeal before the jurisdictional Tribunal in accordance with law within a period of thirty days thereafter. In case such appeal is filed, the Tribunal is requested to dispose the appeal on merits in accordance with law. If the petitioner fails to file appeal before the jurisdictional Tribunal within the aforesaid period of thirty days, the respondents are at liberty to proceed further in terms of the impugned notice dated 01.03.2016. All further recovery proceeding will be subject the petitioner filing an appeal within thirty days of its service on its counsel.

7. Accordingly, the present Writ Petition is disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Tax Recovery Officer-5,
Office of the Principal Commissioner Income Tax - 5,
5th Floor Room, 562 'D' Cabin,
Wanaparthy Block, 121,
Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

2.The Commissioner of Income Tax (Appeals) - V,
121, Nungambakkam High Road,
Chennai - 600 034.

+1cc to Mrs.Hema Murali Krishnan, Advocate SR.10179

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MR(CO)
CB(18/03/2020)