BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.12.2020
CORAM
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
W.P (MD) No.3206 of 2020
and
W.M.P.(MD).No.2735 of 2020
(Through Video Conferencing)

M/s.Valli Sons,
No.157-A, Gandhi Adigal Salai,
Kumbakonam,
Kumbakonam-621 001. ... Petitioner

Vs

1.The Principal Commissioner of Income Tax,
Trichy-1,New No.44, Old No.4, Williams Road,
Cantonment, Thiruchirappalli-620 001.

2.The Commissioner of Income Tax,
(Appeal)-1, Trichy,
New No.44, Old No.4, Williams Road,
Cantonment, Thiruchirappalli-620 001.

3.The Assistant Commissioner of Income Tax,
Circle-2(1), Trichy,Trichy Main Buildings,
New No.44, Old No.4, Williams Road,
Cantonment, Thiruchirappalli-620 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the second respondent viz., the learned Commissioner of Income Tax (Appeals)-1, Thiruchirapalli, to dispose of the petitioner's appeal filed on 08.01.2020 at an early date.

For Petitioner : Mr.G.Asokapathi
For M/s.Pass Associates
For Respondents : Mr.N.Dilip Kumar
Standing Counsel

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to dispose of the petitioner's appeal filed on 08.01.2020 within a time frame to be fixed by this Court.

2. Heard Mr.G.Asokapathi, learned counsel representing M/s.Pass Associates for the petitioner and Mr.N.Dilip Kumar, learned Standing counsel for the respondents.

3. It is the contention of the petitioner that aggrieved by an assessment order passed by the third respondent on 21.12.2019, the petitioner has preferred the statutory appeal before the second respondent. It is his contention that they had also filed a stay application seeking for stay of the assessment order. However, according to the petitioner, the said application was returned by the first respondent on the ground that the petitioner is required to pay 20% of the total disputed demand as per CBDT O.M. Circulars.

4. It is the contention of the petitioner that there is no necessity for payment of 20% of the total disputed demand as directed by the respondents for obtaining stay of the assessment order. In such circumstances, the petitioner has sought for early disposal of the statutory appeal filed by them before the second respondent.

5. The relief sought for by the petitioner in this Writ Petition is an innocuous relief. No prejudice will be caused to the respondents, if the appeal filed by the petitioner aggrieved by the assessment order dated 21.12.2019 passed by the third respondent is disposed of by the second respondent expeditiously.

6. Admittedly, it is the case of the petitioner that the stay application filed for seeking of the stay of the assessment order dated 21.12.2019 passed by the third respondent has already been returned on the ground that the petitioner will have to pay 20% of the disputed tax amount. In such circumstances, there is merit in the grievance raised by the petitioner in this Writ Petition.

7. For the foregoing reasons, this Court directs the second respondent to dispose of the statutory appeal filed by the petitioner on 08.01.2020 aggrieved by the assessment order dated 21.12.2019 passed by the third respondent within a period of six weeks from the date of receipt of a copy of this order, after affording sufficient opportunity to the petitioner in the said proceedings on merits and in accordance with law.

8. With the aforesaid direction, the Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

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Sub Assistant Registrar(CS)

tsg

TO

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New No.44, Old No.4, Williams Road,
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+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-24035[F] dated 04/12/2020)

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03.12.2020

PK(CO)
KK(15.12.2020) 3P 5C