WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.4285 of 2020 and
W.M.P(MD)Nos.3607, 3608 and 3609 of 2020

Manickavel Edible Oils Private Limited,
123-A, Katchery Road, Virudhunagar-626 001. ... Petitioner

Vs.

The Assistant Commissioner of Income Tax,
Corporate Circle-2, Madurai,
No.2, VP.Rathinasamy Nadar Road,
CR Building, Bibikulam,
Madurai- 625 002 ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent contained in its order dated 24.2.2020 bearing DIN and Letter No.ITBA/COM/F/17/2019-20/1025677649(1) for the Assessment Year 2017-18 for Pan:AADCM6102H and quash the same as arbitrary, unjust and illegal and consequently to direct the respondent to forbear from taking any steps towards the recovery of any demand made pursuant to the Assessment Order dated 29.12.2029 issued for the Assessment year 2017-18 for PAN:AADCM6102H, until the disposal of the appeal filed by the Petitioner against the said order before the Commissioner of Income Tax(Appeals), Madurai.

For Petitioner : Mr.K.Govindarajan
For Respondent : Mrs.S.Srimathy
Standing Counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the order passed by the respondent, dated 24.2.2020 bearing DIN and Letter No.ITBA/COM/F/17/2019-20/1025677649(1) for the Assessment Year 2017-18 for Pan:AADCM6102H as arbitrary, unjust and illegal and consequently to direct the respondent to forbear from taking any steps towards the recovery of any demand pursuant to the Assessment Order dated 29.12.2029 issued for the Assessment year 2017-18 for PAN:AADCM6102H, until the disposal of the appeal filed by the Petitioner against the said order before the Commissioner of Income Tax(Appeals), Madurai.

https://hcservices.ecourts.gov.in/hcservices/

2.Ms.S.Srimathy, learned Standing Counsel takes notice for the respondent.

3. By consent of both parties, the main Writ Petition is taken up for final disposal.

WEB COPY

4.The above said impugned order says that the condition required to be satisfied by the Petitioner before the Assessing Officer to consider his application for grant of stay of collection of the demand raised is to pay the 20% of the disputed amount in case where the outstanding demand is disputed before the the Commissioner of Income Tax(Appeal). The Assistant Commissioners of Income Tax belonging to different circles have been passing orders either imposing 20% demand for granting stay or 20% deposit for even considering the stay application or as the one passed in this case.

5.There seems to have no uniformity among the Assistant Commissioners in passing orders. Be that as it may, in this case, the Petitioner is willing to deposit 20% of the tax component of Rs.3,91,01,908/- and upon instructions, the learned Standing Counsel appearing for the respondent also agreed for the same. On such deposit made by the Petitioner, there will be an order of interim stay of the demand, till such time, the appeal filed by the Petitioner is disposed of. Further, the respondent is directed to dispose of the appeal filed by the Petitioner, within a period of four weeks from the date of receipt of a copy of this order.

6.With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Assistant Commissioner of Income Tax,
Corporate Circle-2, Madurai,
No.2, VP.Rathinasamy Nadar Road,
CR Building, Bibikulam, Madurai- 625 002.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-9181[F] dated 28/02/2020)
VSN
TE/JC/SAR-II : 17/03/2020 : 2P/3C

ORDER MADE IN
W.P(MD)No.4285 of 2020 and
W.M.P(MD)Nos.3607, 3608 and 3609 of 2020
28.02.2020

https://hcservices.ecourts.gov.in/hcservices/