IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2021

CORAM :

THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P.No.11514 of 2021
and
W.M.P.No.12262 of 2021

Madhu Desikan
Liquidator, M/s.Jain Granites and Projects Ltd.,
1/4, Vijay Laxmi Apartment,
Balasubramaniam Street,
Mylapore, Chennai - 600 004. ... Petitioner

Vs.

1.Deputy Director of Income Tax (Investigation)
Unit 2(4), Chennai
Department of Direct Taxes, Investigation Wing,
Unit 2-4, Nungambakkam High Road,
Chennai - 600 034.

2.The Additional Director of Income Tax (Inv) Coimbatore
Chief Commissioner of Income Tax, (Investigations)
Coimbatore, 63, Racecourse Road,
Coimbatore - 641 018.

3.The Deputy Commissioner of Income Tax,
Corporate Circle 2(2), Chennai,
Room No.512, V Floor, Wanarpathy Block,
121, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai - 600 034. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to return the Computer Hard Disk and documents seized by the respondents, restraining the respondent, their officers, employees, subordinates, or any other person acting or claiming under them, from in manner initiating or proceeding with any action against the petitioner by seeking to act pursuant to the respondent's search and summons and all consequent proceedings thereto in respect of the petitioner pending disposal of this writ petition and the application filed before the Hon'ble NCLT.

For Petitioner : Mr.B.Ramana Kumar

For Respondents : Mr.A.N.R.Jayaprathap
Standing Counsel (Income Tax)

O R D E R

The petitioner is before this Court seeking a direction to the respondents for return of the Computer Hard Disk and documents, etc., seized by them.

2.In fact, the petitioner is aggrieved by the issuance of summons by the respondents under the provisions of the Income Tax Act, 1961, and the summon, dated 24.03.2021, has been responded to by the petitioner by the reply dated 27.03.2021. While a decision is pending on the same by the authorities concerned, the petitioner has needlessly rushed to this Court with a mandamus prayer.

3.When a dispute is pending before the Tax Authority, unless a decision is taken by the authority one way or the other, it is certainly not open to the petitioner to rush to this Court invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. In any event, in a pending dispute of this nature before the Tax Authority, it is certainly not open to this Court to give any direction as sought by the petitioner in this writ petition. In fact, what the petitioner could not achieve directly, he is attempting to achieve the same indirectly by invoking the extraordinary jurisdiction of this Court. This Court would certainly not pass any direction when action has been initiated against the petitioner by the Tax Authority and has not culminated or crystallized into any definite decision. Therefore, this Court is of the view that the writ petition is not maintainable for more than one reason that the same being premature and the same being not maintainable.

4.Hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mkn

To

1.The Deputy Director of Income Tax (Investigation)
Unit 2(4), Chennai
Department of Direct Taxes, Investigation Wing,
Unit 2-4, Nungambakkam High Road,
Chennai - 600 034.

2.The Additional Director of Income Tax (Inv) Coimbatore
Chief Commissioner of Income Tax, (Investigations)
Coimbatore, 63, Racecourse Road,
Coimbatore - 641 018.

3.The Deputy Commissioner of Income Tax,
Corporate Circle 2(2), Chennai,
Room No.512, V Floor, Wanarpathy Block,
121, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai - 600 034.

W.P.No.11514 of 2021

RSV(CO)
GMY(23/07/2021)