IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26650 of 2021
and
W.M.P.Nos.28092 & 28093 of 2021

(Through Video Conferencing)

Expovan,
Represented by its Managing Partner,
Mr.R.Mahendran,
No.124/16, Vadakkipalayam Road,
R.Ponnapuram, Pollachi - 642 002. ... Petitioner

Vs

The Deputy Commissioner of Income Tax,
Non-Corporate Circle 4,
No.63, Race Course Road,
Coimbatore - 641 018. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent contained in its Order dated 17.09.2021 bearing DIN & Letter No.ITBA/COM/F/17/2021-2022/1035676709(1) issued under Section 220(6) of the Income Tax Act, 1961 and all proceedings in furtherance thereof, and to quash the same as arbitrary, illegal and unjust, and to consequently forbear the respondent and/or any of its subordinates, agents, representatives or any other person claiming under/through the respondent from in any manner taking any steps towards the recovery of any demand made pursuant to the assessment order passed by the respondent bearing DIN:ITBA/AST/S/143(3)/2021-2022/1032276622(1) passed under Section 143(3) read with Section 143(3A) and 143(3B) of the Income Tax Act, 1961, dated 07.04.2021 for the Assessment Year 2018-2019 for PAN:AAFFE1545F pending disposal of the petitioner's appeal by the Commissioner of Income Tax (Appeals).

For Petitioner : Mr.A.R.L.Sundaresan
Senior Counsel
for Mr.M.Velmurugan

For Respondent : Mr.A.N.R.Jayaprathap
Junior Standing Counsel

ORDER

Mr.A.N.R.Jayaprathap, learned Junior Standing Counsel takes notice on behalf of the respondent.

2. This Writ Petition is disposed at the time of admission after hearing the learned counsel for the petitioner and the learned Junior Standing Counsel for the respondent Income Tax Department.

3. The petitioner had suffered the Assessment Order for the Assessment Year 2018-2019 vide the Final Assessment Order dated 07.04.2021. Against the aforesaid order, the petitioner preferred an appeal before the Commissioner of Income Tax (Appeals) and had simultaneously filed an application under Section 220(6) of the Income Tax Act, 1961 before the respondent to stay operation of the recovery proceedings.

4. The respondent has now passed the impugned order dated 17.09.2021 after referring to circulars which have been issued the Central Board of Direct Taxes. As per the aforesaid order, the petitioner is required to deposit 20% of the tax due as the condition for the appeal to be heard subject to which stay was to be granted to the petitioner pending disposal of the appeal.

5. The petitioner has sent a request asking the respondent to allow to deposit Rs.10,00,000/- per month considering the fact that the amounts to be pre-deposited comes to Rs.2,98,81,885/-. Since the petitioner has not deposited the amount of Rs.2,98,81,885/-, the respondent has now attached the bank accounts of the petitioner which threatens the business of the petitioner as the petitioner has to pay for the procurements in the auctions conducted by the Board.

6. Considering the same, I am inclined to dispose this writ petition by directing the petitioner to pay a sum of Rs.30,00,000/- per month till the amount is paid. The amounts shall be paid by the petitioner by 5th of every month. In case there is failure to pay the amounts by the due date, the protection under this order shall come to an end sine die and the respondent will be at liberty to attach the bank accounts of the petitioner. In other words, the impugned Assessment Order shall stand revived without any reference.

7. The appeal of the petitioner which is pending before the Commissioner of Income Tax (Appeals) shall be taken up for a final hearing only after the petitioner pays the entire amount of Rs.2,98,81,885/- in terms of this order.

8. It is needless to state that the payments to be paid by the petitioner is without prejudice to the rights of the

petitioner in the appeal pending before the Commissioner of Income Tax (Appeals). The first instalment shall be paid by the petitioner by 05.01.2022.

9. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The Deputy Commissioner of Income Tax,
Non-Corporate Circle 4,
No.63, Race Course Road,
Coimbatore - 641 018.

+1cc to Mr.M.Velmurugan, Advocate SR.No.66441

+1cc to Mr.A.P.Srinivas, Advocate SR.No.66542

W.P.No.26650 of 2021
and
W.M.P.Nos.28092 & 28093 of 2021

PM(CO)
GMY(11/01/2022)