IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.08.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.34290 of 2018
and
WMP Nos.39860 & 39863 of 2018

Sir M.Ct.M. Centenary School Society,
Registered as No.283 of 1992,
Rep. By its Secretary,
Mrs.Nandhini Valli Muthiah,
No.63, Ormes Road,
Kilpauk,
Chennai - 600 010. .. Petitioner

Vs

1. Income Tax Officer (Exemptions)
   Ward 2, Room No.720,
   Wanaparthy Block,
   7th Floor, No.121,
   Uthamar Gandhi Road,
   Nungambakkam, Chennai - 600 034.

2. Central Board of Direct Taxes,
   Ministry of Finance,
   North Block,
   New Delhi - 110 001.

3. Mrs.Arti Meenakshi Muthiah

4. Mr.Tarun Ghai

5. Ms.Supriya Ananth Reddy

6. Sir. M.Ct.Muthiah Chettiar Higher
   Secondary School Trust,
   Rep. By its President,
   and having office at
   No.23, Raja Annamalai Road,
   Pursawalkam, Chennai - 600 084. .. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, Prohibiting the Respondents No. 1 from assessing the income of the Shri M Ct Muthiah Memorial Matriculation Higher Secondary School run by the Petitioner-Society in the hands of 6th respondent Trust.

For Petitioner	:	Mrs.Abitha Banu
For Respondents	:	Mrs.Hema Muralikrishnan (For R1&R2) Sr. Standing Counsel
		Mr.T.Madhusudhan Reddy (for R3 to R6)

O R D E R

The relief sought for in the present writ petition is to prohibit the 1st respondent from assessing the income of Shri M.Ct. Muthiah Memorial Matriculation Hr. Sec. School, run by the petitioner society in the hands of 6th respondent Trust.

2. The petitioner states that petitioner-society has been allotted by the Income Tax Department PAN No.AAKAS1314A and still valid in the records of the department.

3. The learned counsel for the petitioner filed a memo stating that the Secretary of the petitioner-society and the 3rd respondent are sisters. The 4th respondent is the husband of the 3rd respondent. The Hon'ble Supreme Court of India, passed an order on 08.10.2020 in Civil Appeal No.3198 of 2020 appointing Hon'ble Mr. Justice Kurian Joseph (Retired Supreme Court Judge) as Mediator and he is mediating all the issues between the above parties. The memo further states that the parties are in the process of reaching a settlement on various issues, which includes the issue between the petitioner-society, the 6th respondent Trust and the respondents 3 and 4. The learned counsel for the petitioner states that if at all an order is passed in the writ petition, the same will have a bearing on the mediation.

4. The learned counsel for the petitioner made a submission that in view of the fact that the mediation is in progress, the writ petition is to be kept pending and after the completion of mediation, the relief sought for in the writ petition, is to be considered.

5. The learned Senior Standing Counsel appearing for the respondents 1 and 2, objected the said contention raised on behalf of the petitioner by stating that the prayer in the writ petition itself is not maintainable. The negative prayer as such sought for cannot be granted, as the assessments are to be completed by the competent authorities of the Income Tax department strictly adhering to the period of limitation contemplated under various provisions of the Income Tax Act. It is further contended that the Income Tax department is no way connected with the family dispute of the petitioner as well as the other contesting respondents and the settlement of issues between the family members and the school are unconnected with the Income Tax department. Income Tax department is proceeding on the PAN available and the assessments are to be made by adhering the period of limitation, with reference to the PAN concerned. Even in case the disputes are continuing for a longer period, the petitioner may come forward and say that the limitation contemplated under the Act expired and under such circumstances, department may not be in a position to collect the tax arrears. Thus, the powers conferred under the Act must be allowed to be exercised by the competent authorities in the manner prescribed and therefore, the relief as such sought for cannot be granted.

6. This Court is of the considered opinion that as rightly pointed out by the learned Senior Standing Counsel appearing on behalf of the Income Tax department that a writ of prohibition to prohibit the Income Tax Officer from assessing the income cannot be granted in a routine manner. In exceptional circumstances, the Court has to consider the mitigating factors. However, in the present case admittedly the dispute is between the petitioner and respondents 3, 4, 5 and 6. The dispute between the private parties are no way connected with the assessment to be made by the Income Tax department by following the procedures contemplated under the Income tax Act.

7. As rightly pointed out by the respondents/Income Tax Department that assessment orders have to be passed strictly within the period of limitation contemplated under the Act, for initiation of actions under the Income Tax Act, time limits are prescribed. If the time limit expires, then it may not be possible for the Income Tax Department to pursue the matter which would result in loss of revenue.

8. Admittedly, a retired Supreme Court Judge in the present case was appointed by the Hon'ble Supreme Court of India to mediate the issues between the parties. Income Tax department is not a party to the mediation. Further, the duration of mediation and its completion, also cannot be ascertained by this Court. Thus, it would not be in the interest of justice

prohibiting the authorities from assessing the income of any of the parties in the present writ petition. The Income Tax department is bound to assess based on the PAN available and by following the procedures as contemplated. A blanket prohibition as such sought for in the present writ petition, cannot be granted and furthermore, the submission of the petitioner that till the disputes are settled, the writ petition has to be kept pending also deserves no consideration. When the relief sought for is to prohibit the authorities from performing their lawful duties under the provisions of the Income Tax Act, this Court is not inclined to consider the relief as such sought for in the present writ petition and therefore, the Income Tax Department is at liberty to proceed based on the PAN in accordance with law by following the procedures as contemplated under the Income Tax Act.

9. With the above observations, the writ petition stands dismissed. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy//

Sub Assistant Registrar

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To

1. Income Tax Officer (Exemptions)
   Ward 2, Room No.720,
   Wanaparthy Block, 7th Floor,
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   Nungambakkam, Chennai - 600 034.

2. Central Board of Direct Taxes,
   Ministry of Finance,
   North Block,
   New Delhi - 110 001.

+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.39164

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SMI(CO)
SU(01/09/2021)