IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NOS.628 & 631 OF 2022
AND
W.M.P.NOS.673, 674, 680 & 681 OF 2022

(Through Video Conferencing)

Mr.V.Krishnamurthy
... Petitioner in both W.Ps

Vs.

1. The Income Tax Officer,
Non-Corporate Ward-19(6),
Income Tax Department,
121, Nungambakkam High Road,
Chennai - 600 034.

2. The Assistant Commissioner of Income Tax,
National Faceless Assessment Centre,
Delhi, Room No.401, 2nd Floor,
E-Ramp, Jawarharlal Nehru Stadium,
Delhi - 110 003.

3. The Principal Commissioner of Income Tax,
Chennai - 3,
Income Tax Department,
121, Nungambakkam High Road,
Chennai - 600 034.
... First to Third Respondents in both W.Ps

4. M/s.Axis Bank,
82, Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
... Fourth Respondent in W.P.No.628 of 2022

5. M/s.Punjab National Bank,
No.205, Velachery Road,
East Tambaram,
Chennai - 600 073.
... Fourth Respondent in W.P.No.631 of 2022

Prayer in W.P.No.628 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Writ Petitioner/Assessee on the file of the first respondent to quash the impugned attachment order dated 08.12.2021 passed under Section 226(3) of the Income Tax Act, 1961 for the Assessment Years 2017-2018 and 2018-2019 in DIN and Notice No.ITBA/RCV/S/226(3)-1/2021-2022/1037604667(1) and consequently directing the first respondent to stop the recovery proceedings during the pendency of the first appeal for both the assessment years.

Prayer in W.P.No.631 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Writ Petitioner/Assessee on the file of the first respondent to quash the impugned attachment order dated 08.12.2021 passed under Section 226(3) of the Income Tax Act, 1961 for the Assessment Years 2017-2018 and 2018-2019 in DIN and Notice No.ITBA/RCV/S/226(3)-1/2021-2022/1037591027(1) and consequently directing the first respondent to stop the recovery proceedings during the pendency of the first appeal for both the assessment years.

For Petitioner (In both W.Ps)	:	Mr.A.S.Sriraman
For Respondents For R1 to R3 (In both W.Ps)	:	Mrs.Hema Muralikrishnan Senior Standing Counsel

COMMON ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel takes notice on behalf of the first to third respondents.

2. The petitioner has challenged the impugned Bank Attachment Notices attaching the petitioner's account with Axis Bank and Punjab National Bank.

3. The petitioner had suffered Assessment Orders dated 05.12.2019 and 24.02.2021 for the Assessment Years 2017-2018 and 2018-2019 respectively.

4. The petitioner has also filed an appeal before the CIT (Appeals) under Section 246A of the Income Tax Act, 1961 against the respective Assessment Orders on 31.12.2019 and 18.03.2021.

5. Simultaneously, the petitioner has also moved applications/petitions on 02.01.2020 and on 19.03.2021 under Section 220(6) of the Income Tax Act, 1961 to stay the recovery of the amounts confirmed in the Assessment Orders dated 05.12.2019 and 24.02.2021.

6. The learned counsel for the petitioner submits that the petitioner was unwell and could not participate and respond to the notices issued under the Income Tax Act, 1961 and that high pitch demand was confirmed whereas the petitioner's turnover itself was far below the amount which has been confirmed in the Assessment Orders 05.12.2019 and 24.02.2021.

7. The learned counsel for the petitioner further submits that the respondents have not been disposed of the applications/petitions filed under Section 220(6) of the Income Tax Act, 1961 and therefore submits that the impugned Bank Attachment Notices have to be quashed.

8. Opposing the prayer, the learned Senior Standing Counsel for the first to third respondents, on instructions, submits that as far as the Assessment Year 2017-2018 is concerned, two communications/letters were sent on 03.09.2021 and 17.09.2021 which have not been challenged by the petitioner.

9. The learned Senior Standing Counsel further submits that the petitioner has not filed any documents relating to the Assessment Year 2018-2019 as to whether any other communications were received by the petitioner pursuant to the applications/petitions filed under 220(6) of the Income Tax Act, 1961.

10. The learned Senior Standing Counsel further submits that these writ petitions are liable to be dismissed as the petitioner has not challenged the communications/letters dated 03.09.2021 and 17.09.2021.

11. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the first to third respondents. I have also perused the records.

12. The petitioner has given reasons for not participating in the proceedings earlier on account of the fact that the petitioner was unwell. The Assessment Orders which have been passed on 05.12.2019 and 24.02.2021 appears to be an ex-parte orders.

13. The merits of the contention of the petitioner will have to be decided in the appeals pending before the CIT (Appeals)

which were reportedly filed on 31.12.2019 and 18.03.2021 for the respective Assessment Years.

14. The petitioner's applications/petitions under Section 220(6) of the Income Tax Act, 1961 have not been disposed in the manner known to law. There are guidelines issued by the Central Board of Direct Taxes starting from 1989 which mandates a speaking order to be passed under Section 220(6) of the Income Tax Act, 1961. The communications/letters dated 03.09.2021 and 17.09.2021 have enclosed in the typed set of papers in support of the present writ petitions indicate that there is no application of mind by the Officer concerned.

15. Under these circumstances, the impugned Bank Attachment Notices are set aside and the cases are remitted back to the first respondent to pass appropriate orders on merits and in accordance with law on the applications/petitions filed under Section 220(6) of the Income Tax Act, 1961 within a period of four weeks from the date of receipt of a copy of this order.

16. Needless, to state that the petitioner shall be given an opportunity of being heard as per the relevant Acts and Rules. The first respondent is also directed to verify whether the orders passed for the Assessment Year 2018-2019 was ex-parte order or not and thereafter pass appropriate orders within the aforesaid period.

17. These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

rgm/arb

To

1. The Income Tax Officer,
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Income Tax Department,
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Chennai - 600 034.

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   Delhi - 110 003.

3. The Principal Commissioner of Income Tax,
   Chennai - 3,
   Income Tax Department,
   121, Nungambakkam High Road,
   Chennai - 600 034.

+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.7450

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GP(CO)
RLP(22/02/2022)