IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.3552 OF 2022
AND
W.M.P.NOS.3681 & 3682 OF 2022

M/s. Magic Woods Exports Private Limited,
Represented by its Authorized Signatory,
T.Prabha,
A-8, Industrial Complex,
Maraimalai Nagar,
Kancheepuram, Chennai,
Tamil Nadu – 603 209. ... Petitioner

.Vs.

1. The Assistant Commissioner of Income-Tax,
   Corporate Circle 4(1),
   Aayakar Bhawan,
   4th Floor Main Building,
   No.121, Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

2. The Central Processing Centre,
   Post Bag No.2,
   Electronic City Post Office,
   Bangalore – 560 500.

3. The Principal Commissioner of Income Tax,
   Chennai – 4,
   No.121, Mahatma Gandhi High Road,
   Chennai – 600 034.

4. The State Bank of India,
   86, Rajaji Salai,
   Chennai – 600 001. ... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records comprised in notice under Section 226(3) dated

08.02.2022 in DIN and Notice No.ITBA/RCV/226(3)_1/2021-22/1039510203(1) issued by the First respondent to the fourth respondent, quash the same, direct the first, second and third respondents to consider the pending applications for rectification of orders, stay of demand after providing the copies of orders which were not served on the petitioner and giving the petitioner adequate opportunity of being heard and not to proceed with the recovery pending disposal of the said applications before them.

For Petitioner : Mr.N.V.Balaji

For Respondents : Mrs.Hema Muralikrishanan
Senior Standing Counsel
For RR1 to 3

Mr.P.Elayaraj Kumar
Standing Counsel
For M/s.Ramalingam of Associates
For R4

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to quash the proceedings in notice under Section 226 (3) dated 08.02.2022 in DIN and Notice No.ITBA/RCV/226(3) _1/2021-22/1039510203(1) issued by the First respondent to the fourth respondent and to direct the first, second and third respondents to consider the pending applications for rectification of orders, stay of demand after providing the copies of orders which were not served on the petitioner and giving the petitioner adequate opportunity of being heard and not to proceed with the recovery pending disposal of the said applications before them.

2. Though mainly the order of provisional attachment made of the Bank Account of the petitioner/assessee under Section 226(3) of the Income Tax Act, 1961,(in short, 'the Act') dated 08.02.2022 is under challenge, the consequential prayer sought for by the petitioner is that, the application submitted by the petitioner/assessee for rectification as well as the stay of the demand pending before the respondent/Assessing Authority may be directed to be disposed of on merits at an early date.

3. Today when the matter is taken up for hearing, Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing for the respondents 1 to 3 submitted that, the attachment of the Bank account of the petitioner made under Section 226(3) of the Act by order dated 08.02.2022 has been lifted with immediate

effect by order dated 23.02.2022 and in this regard, the copy of the said order also has been produced before this Court by the learned Senior Standing Counsel and the content of the same is extracted hereunder:

> “2. The bank account in the case of M/s. Magick Woods Exports Private Limited was attached vide notice under Section 226(3) of the Income Tax Act, 1961 dated 08.02.2022. The attachment imposed vide cited reference on the assessee's Current A/C.No.30118346320 is hereby lifted with immediate effect.
>
> Yours faithfully,
> sd/-
> (Sita Krishnamoorthy, I.R.S)
> Deputy Commissioner of Income-Tax
> Corporate Circle – 4(1), Chennai.”

4. By relying upon this communication, learned Senior Standing Counsel would submit that, since the very attachment itself is lifted by order dated 23.02.2022, nothing survives in this writ petition, therefore, recording the same, it may be closed.

5. However, Mr.N.V.Balaji, learned counsel appearing for the petitioner would submit that, insofar as the consequential prayer of mandamus to pass orders on the rectification as well as the stay of the demand application submitted and pending before the Assessing Officer is concerned, such kind of direction now can be given, for which, there could be no impediment, in view of the attachment being lifted now, he contended.

6. Considering the said submission made by both sides, this Court is inclined to pass the following directions:

- That in view of the order passed by the first respondent dated 23.02.2022, where the attachment order dated 08.02.2022 since has been lifted, the certiorari portion of the prayer sought for herein has become infructuous, therefore, recording the same, that portion has been dismissed as infructuous.

- In respect of mandamus portion is concerned, there shall be a direction to the respondents 1 to 3 to consider and pass orders on the pending application i.e., rectification application as well as the application for stay of demand filed and it is pending before the Assessing Officer at an early date, on merits and in accordance with law, after giving a reasonable opportunity of being heard to the petitioner, preferably within a period of six weeks from the date of receipt of a copy of this order .

7. With this direction, this writ petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mp/sp

To

1. The Assistant Commissioner of Income-Tax,
Corporate Circle 4(1),
Aayakar Bhawan, 4th Floor Main Building,
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.

2. The Central Processing Centre,
Post Bag No.2,
Electronic City Post Office,
Bangalore – 560 500.

3. The Principal Commissioner of Income Tax,
Chennai – 4,
No.121, Mahatma Gandhi High Road,
Chennai – 600 034.

4. The State Bank of India,
86, Rajaji Salai,
Chennai – 600 001.

+1cc to Mrs.Hema Muralikrishanan, Advocate, S.R.No.12555
+1cc to Mr.N.V.Balaji, Advocate, S.R.No.12865

W.P.NO.3552 OF 2022

RR(CO)
PBS/17/03/2022