IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.9661 of 2022
and
W.M.P.No.9401 of 2022

Sri Venkateswara Agencies
Rep.by its Partner R.Prithviraj
54/1, Mayiladuthurai Road
Sannanalur – 609 504
Thiruvarur District.

…. Petitioner

-Vs-

1.The Commissioner of Income Tax (Appeals)
Cantonment, Tiruchirapalli-620 001.

2.The Assistant Commissioner of Income Tax
Circle -2(1) Williams Road Cantonment
Tiruchirapalli – 620 001.

…. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider and dispose off the appeal petition in ITA No.414 of 2019-20 filed by the petitioner on 14.01.2020 as expeditiously as possible.

For Petitioner : Mr.K.Soundararajan

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to consider and dispose off the appeal petition in ITA No.414 of 2019-20 filed by the petitioner on 14.10.2020 as expeditiously as possible.

2. The petitioner is an assessee under the respondent within

the meaning of the provisions of Income Tax Act, 1961 (In short 'the Act').

3. In respect of the assessment year 2017-18, an assessment order was passed under Section 143(3) of the Act on 22.12.2019, as against which regular appeal ie., before the Commissioner of Income Tax (Appeals) / Appellate Authority was filed by the petitioner assessee on 14.01.2020, which is still pending. The only grievance of the petitioner is that, if the appeal is decided on merits at the earliest point of time, the petitioner would be in a position to know what shall be the tax liability based on the order passed by the assessing authority.

4. The urgency urged by the learned counsel for the petitioner to seek for such a direction to the appellate authority to dispose of the appeal on merits is that, during the demonetization period, large amount of cash was deposited in the bank account and now by virtue of the assessment order the business activities of the petitioner has been crippled and therefore showing that urgency, the learned counsel for the petitioner seeks the indulgence of this Court.

5. Heard Mrs.Hema Muralikrishnan, learned counsel for the petitioner, who would submit that, now everything is being done through Faceless Assessment Scheme and therefore no fixed time can be made to the appellate authority of the Faceless Assessment Scheme and therefore, if at all any direction is given fixing strict and rigid time frame, that will set a bad precedent in other cases.

6. I have considered the submissions made by the learned counsel appearing for either side and have perused the materials placed on record.

7. As has been rightly pointed out by the learned Standing Counsel appearing for the Revenue, if a direction is given with a time bound order fixing the time limit to the appellate authority to decide the appeal filed by the petitioner, that will have a repercussion in the seriatim of cases pending before the appellate authority. Therefore in order to balance the interest of both sides, in view of the urgency expressed by the petitioner's counsel, this Court is inclined to dispose of this writ petition with the following order.

> “That there shall be a direction to the respondent appellate authority (Faceless Assessment Appellate Authority) to decide the appeal of the petitioner in ITA No.414 of 2019-20 as early as possible by giving preference of hearing in this matter.”

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1.The Commissioner of Income Tax (Appeals)
Cantonment, Tiruchirapalli-620 001.

2.The Assistant Commissioner of Income Tax
Circle -2(1) Williams Road Cantonment
Tiruchirapalli – 620 001.

+1cc to M/s.K.Soundararajan, Advocate, S.R.No.272021
+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.27450

W.P.No. 9661 of 2022

SSN(CO)
SB(04/05/2022)