IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.10380 of 2022

British Agro Products (India) P Ltd.,
Rep.by its Managing Director Dr.Akilan Ramnathan
No.9, State Bank Officers Colony
Shastri Nagar, Adyar, Chennai 600 020. ... Petitioner

-Vs-

1. The Principal Chief Commissioner of Income Tax-1
   (Tamil Nadu & Puducherry)
   Income Tax Department, 121, Nungambakkam
   High Road, Chennai 600 034.

2. The Principal Commissioner of Income Tax-1
   Income Tax Department, 121, Nungambakkam
   High Road, Chennai 600 034.

3. The Chief Commissioner of Income Tax
   National faceless Assessment Centre, Delhi,
   E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to call for the records of the writ petitioner company on the file of the respondents to dispose of petitioner company appeal with acknowledgement No.718145870221021 dated 22.10.2021 within a stipulated time.

For Petitioner	:	Mr.V.Ayyadurai, Senior Advocate for Mr.Velmurugan
For Respondents	:	Mr.D.Prabhu Mukunth Arunkumar Junior Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus to call for the records of the writ petitioner company appeal with acknowledgement No.718145870221021 dated 22.10.2021 and to direct the respondent to dispose the same within a stipulated time.

2. The petitioner is an assessee under the respondents. With regard to the assessment year 2018-2019, an order of assessment was passed under Section 143(3) read with Section 144B of the Income Tax, Act 1961 (In short 'the Act') by order dated 23.09.2021.

3. As against the assessment order, even though the petitioner filed a writ petition unsuccessfully, subsequently he decided to file an appeal ie., regular quantum appeal before the Commissioner of Income Tax (Appeals) ie., the appellate authority and such appeal was filed on 22.10.2021 in prescribed format before the appellate authority, which is still pending.

4. In the meanwhile, an application for stay also seems to have been filed before the assessing authority under Section 220 (6) of the Act and that is also said to be pending and yet to be decided by the concerned authority.

5. Therefore, the learned Senior Counsel appearing for the petitioner assessee submits that, if the quantum appeal filed by the petitioner and is pending before the appellate authority is decided on merits and in accordance with law at an early date, that will give solace to the petitioner, as the issue raised before the appellate authority on merits certainly will go in favour of the assessee. Hence, the learned Senior Counsel for the petitioner seeks the indulgence of this Court to issue a direction by way of mandamus to the respondents.

6. Heard Mr.D.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel appearing for the respondent Revenue, who would submit that, if at all the petitioner has to get any orders with regard to the consequential action pursuant to the assessment order, and in this regard already the petitioner has approached the assessing authority and filed a petition for stay, the same can be persuaded by the assessee, where it is open to the assessing authority to decide the same on merits, of course by imposing certain conditions of his discretion. This mechanism is available under Section 220(6) of the Act. Therefore for such purpose, the petitioner need not seek the indulgence of this Court to issue a direction to the respondent appellate authority to decide the appeal at an early date in view of the large pendency of appeals pending before the appellate authority, he contended.

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

8. Insofar as the prayer sought for herein is concerned, it

is only for a mandamus to direct the appellate authority to decide the appeal filed by the petitioner on merits within a time frame. In this context, even though attempt has already been made by the assessee to file a petition for stay, the same is also still pending, where no decision seems to have been taken. When that being so, the petitioner assessee may not be remedy-less during the pendency of the appeal. Therefore this Court, taking into account the facts and circumstances and having regard to the submissions made by both sides, is inclined to dispose of this writ petition with the following order.

9. That there shall be a direction to the respondents / appellate authority to decide and dispose of the appeal filed by the petitioner dated 22.10.2021 against the assessment order dated 23.09.2021 for the Assessment Year 2018-2019 on merits and in accordance with law, after giving a fair hearing to the petitioner within a period of four months from the date of receipt of a copy of this order. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Principal Chief Commissioner of Income Tax-1
(Tamil Nadu & Puducherry)
Income Tax Department, 121, Nungambakkam
High Road, Chennai 600 034.

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3. The Chief Commissioner of Income Tax
National faceless Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.

+1cc to Mr.Hema Muralikrishnan, Advocate, S.R.No.28802
+1cc to Mr.Velmurugan, Advocate, S.R.No.28334

W.P.No. 10380 of 2022

RSV(CO)
CT-09/05/2022