W.M.P.No.24676 of 2021

in

W.P.No.28991 of 2018

V.PARTHIBAN,J.

and

ANITA SUMANTH,J.

(Order of the Court was made by ANITA SUMANTH,J.)

Heard Mr.R.Sankaranarayanan, learned Additional Solicitor General for Mr.A.P.Srinivas, learned Senior Standing Counsel for the Income Tax Department, the petitioner in the miscellaneous petition / respondents in the writ petition and Mr.Rahul Balaji, learned counsel for the respondent in the miscellaneous petition / petitioner in the writ petition.

2. The present Miscellaneous petition is filed seeking a direction to permit the Income Tax Department to withdraw the amount of Rs.213.30 Crores with accrued interest up to date that lies to the credit of W.P.No.28991 of 2018 and permit transfer of the same to the PD Account of PCIT, Central-2, Chennai A/C No.07543701001 with the Reserve Bank of India.

3. Admittedly, orders of assessment in terms of the Income Tax Act 1961 have been passed in the cases of Christy Friedgram Industry, Rasi Nutri Foods, Natural Food Products and Suvarnabhoomi Enterprises Pvt. Ltd and the cumulative demand

raised amounts to a sum of Rs.1315,17,05,094/- (Rupees one thousand three hundred and fifteen Crores, seventeen lakhs, five thousand and ninety four only). Also admittedly an amount of Rs.213.30 Crores lies to the credit of this writ petition, presently accruing interest.

4. In the counter filed by the respondent to the Miscellaneous Petition, they state that statutory appeals have been filed by the aforesaid four entities that are pending before the first appellate authority. They express their consent for the prayer of the Income Tax Department for transfer of the amount of Rs.213.30 Crores with accrued interest to the Income Tax Department for adjustment against the demands raised in assessment. They also request that, upon such transfer, no further demand be made by the Department towards the balance of the disputed arrears.

5. Mr.R.Sankaranarayanan would, upon instructions received from Mr.A.P.Srinivas, Mr.V.Jenardhanan, IRS, Additional Commissioner of Income Tax, Central Range.2, Chennai and Mr.M.Vivekanandan, Deputy Commissioner of Income Tax, Central Circle-2(1), Chennai, who are all present and assisting him in Court, accede to the position that there would be no further demand raised upon by the respondent upon transfer of the aforesaid amount to the PD Account of PCIT, Central – 2, Chennai A/C No.07543701001 with the Reserve Bank of India till disposal of the statutory appeals pending before the first appellate authority. This is recorded.

6. Both learned counsel seek a direction to the appellate authority to dispose the appeals with a time frame to be fixed by this Court. Accordingly, this Court fixes a time frame of six months for disposal of the appeals. The aforesaid direction shall be conveyed to the appellate authority by Mr.A.P.Srinivas in so far as the appellate authority is not arrayed as a party in this Petition.

7. Let the appellate proceedings be commenced as expeditiously as possible to ensure sufficient time for disposal. The assessees shall cooperate in the conduct of the appeals and both parties shall ensure adherence to the time frame as stipulated aforesaid. The interim protection granted under this order shall be effective for a period of six months or till disposal of the appeals, whichever is earlier.

8. Incidentally, the respondent in counter makes reference to and relies upon CBDT Instruction No.96, dated 21.08.1969. However, the aforesaid Instruction stands superseded by Instruction No.1914, dated 21.03.1996 as amended on 31.07.2017, that requires the authorities to consider a request for stay taking note of the existence of a prima facie case, hardship and balance of convenience in the matter. In any event, the assurance extended by the Department now, as recorded in paragraphs 5 to 7 as above, would suffice to protect the interests of the parties in the interim.

9. Affidavits dated 25.02.2022 have been filed by the authorized signatories of Rasi Nutri Foods, Natural Food Products and Suvarnabhoomi Enterprises Pvt. Ltd.

consenting to the transfer of the amount of Rs.213.30 Crores with accrued interest to the PD Account of the Income tax Department. The apportionment of the amount deposited qua the four assesses (including the respondent herein) will rest upon the decision to be taken in the appellate proceedings.

10. Ordered accordingly.

(V.P.N.J.) (A.S.M.J.)

25.02.2022

gsk

NOTE: Issue order copy on 03.03.2022.

V.PARTHIBAN,J.

and

ANITA SUMANTH,J.

gsk

W.M.P.No.24676 of 2021

in

W.P.No.28991 of 2018

25.02.2022