



W.P.No.32174 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.11.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.32174 of 2022 &
WMP Nos.31598 and 31599 of 2022

Tvl.Acer India Pvt. Ltd.,
Represented by its authorized signatory
Mr.L.B.Jayaram,
Old No.42, New No.2, Luz Avenue,
Mylapore, Chenna-600 004.

... Petitioner

Vs

1.Principal Commissioner of Income Tax,
Central 2,
No.46 Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

2.Assistant Commissioner of Income Tax,
Central Circle 3(2),
No.46 Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the Second Respondent relating to the application made by the Petitioner for stay of demand for the assessment year 2017-18 and quash the order of the Second Respondent in PAN AAFCT1408B in DIN & Letter No.ITBA/COM/F/17/2022-23/1043836188(1) dated 13.07.2022 for the Assessment Year 2017-18 and direct the Second Respondent to not to treat the Petitioner as an assessee in default pending disposal of the appeal filed by the Petitioner before the Commissioner of Income Tax (Appeals), Coimbatore.



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For Petitioner : Mr.N.V.Balaji
For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and is armed with instructions to enable a final disposal of the matter. Hence, with consent of both counsel, this writ petition is disposed finally even at the stage of admission.

2.The petitioner has challenged an order passed by the Assessing Authority/R2 under the provisions of the Income Tax Act, 1961 rejecting the request for interim stay of collection of demand that arises from an order of assessment passed by the officer for assessment year (A.Y.) 2017-2018.

3.This prayer is mis-conceived, insofar as subsequent to order dated 13.07.2022 which is impugned in this writ petition, the Principal Commissioner has passed an order on 26.10.2022 granting the benefit of interim stay upon satisfaction of the following conditions:

“1. Assessee is to pay 5% of the substantive demand i.e. R.s.7,32,27,584/- in 5 equal instalments from November 2022 and each instalment is to be paid before 10th of every month.

2.Assessee to co-operate with the CIT(A) in the disposal of appeal.

3.No adjournment is taken when the case is fixed for hearing before the appellate authority failing which the stay will automatically be rescinded.

4.The right of the department to adjust any refund arising in the case of the assessee.



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5.The right of the department to charge interest u/Section 220(2) in the case of the assessee.”

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4.This order has not been challenged by the petitioner and rightly, since the same is a discretionary order where the principal commissioner of Income Tax has taken note of all submissions and has passed a reasoned and, in the Court's view, reasonable order in the matter.

5.Faced with this situation, learned counsel for the petitioner would only pray for an expeditious disposal of an appeal. Mr.Srinivas, does not object to this request.

6.Since the Commissioner of Income Tax (Appeals) is not arrayed as a respondent in this writ petition, let the direction which follows, be communicated to the Appellate Authority through the learned Senior Standing Counsel for the respondents.

7. There is a direction to the Appellate Authority to dispose the appeal filed by the petitioner expeditiously and, as far as possible, within three (3) months from date of receipt of a copy of this order.

8.This Writ Petition is disposed as above. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking Order



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Dr.ANITA SUMANTH, J.

kbs

To

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No.46 Mahatma Gandhi Road,
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