BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25.05.2022**
CORAM:
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**
W.P.(MD)No.10376 of 2022 and
WMP(MD).No. 7385 of 2022

Kalpana Balasubramanian .. Petitioner

Vs..

1.The Deputy Commissioner of Income Tax,
Central Circle-1,
Income Tax Staff Quarters Complex,
Kulamangalam Road, Meenambalpuram,
Madurai-625002.

2.The Assistant Commissioner of Income Tax,
Non-Corporate Circle-2,
Income Tax Officer, Madurai,
No.2, V P Rathinaswamy Nadar Road,
C R Building, Bibikulam,
Madurai-625 002.

3.The Commissioner fo Income Tax (Appeals)-19,
New No.46, Old No.108,
Mahatma Gandhi Road,
Nungambakkam,
Chennai-600034. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in DIN and Letter No.ITBA/COM/F/17/2022-23/1043004975(1), dated 11.05.2022 on the file of the first respondent relating to the A.Y.2014-15, quash the same and direct the first respondent to grant stay of collectin of outstanding tax demand pending disposal of the appeal before the third respondent.

For Petitioner : Mr.J.Hariharan

For Respondents : Mr.N.Dilip Kumar

ORDER

The present writ Petition has been filed challenging the order, dated 11.05.2022 passed by the first respondent herein, rejecting the application for stay filed by the writ petitioner on 26.04.2022.

2. According to the writ petitioner, the first respondent has passed the impugned order fixing 20% of the amount to be paid, even for considering the stay application, which is not a statutory mandate.

3. The learned counsel appearing for the respondents strongly objected the prayer in the writ petition and pointed out section 220(6) of the Income Tax Act, wherein, it is the discretion of the authority to impose any condition for granting an order of interim stay.

4. Any how, the main grievance of the writ petitioner is that she was not heard before passing the said impugned order. Directing the writ petitioner to deposit 20% of the amount as condition precedent will have civil consequences. Unless the petitioner is heard, such an order could not have been passed. Since the order is in violation of principles of natural justice, the impugned order is set aside and the matter is remitted back to the file of the first respondent and to pass fresh orders on merits and in accordance with law, after giving an opportunity of being heard. The said exercise shall be completed within a period of 15 days from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

vsg/trp

To

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+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-24137[F] dated 26/05/2022)

+1 CC to M/s.J. HARIHARAN, Advocate (SR-24155[F] dated 26/05/2022)

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