BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.23941 of 2022 and
W.M.P.(MD).No.18039 of 2022

Noorul Islam Educational Trust,
Represented by its Chairman,
Dr.A.P.Majeed Khan,
10/47A, Haji Manzil,
Kollenvilai, Thuckalay,
Kanyakumari District – 629 175. ... Petitioner

Vs.

1. The Commissioner of Income Tax (Appeals)-I,
   C.R.Building 2,
   V.P.Rathinaswamy Nadar Road,
   Bibikulam,
   Madurai – 625 002.

2. The Deputy Commissioner of Income Tax,
   Central Circle,
   Kulamangalam Main Road,
   Meenambalpuram,
   Madurai – 625 002.

3. The Assistant Director of Income Tax,
   Central Processing Centre,
   Bengaluru – 560 500. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the 2nd Respondent from taking any coercive steps for recovery of any amount to any extent in any manner pursuant to the assessment orders passed for the assessment years 1998-99, 1999-2000, 2000-01, 2001-02 and 2002-03.

For Petitioner	:	Mr.S.Bharathy Kannan
For Respondents	:	Mr.N.Dilip Kumar Senior Standing Counsel

O R D E R

This Writ Petition has been filed to forbear the 2nd Respondent from taking any coercive steps for recovery of any amount pursuant to the assessment orders passed for the assessment years 1998-99, 1999-2000, 2000-01, 2001-02 and 2002-03 respectively.

2. It is submitted by the learned counsel for the Petitioner that the assessment for the assessment years 1998-99, 1999-2000, 2000-01, 2001-02 and 2002-03 have been made resulting in demand of Rs.67,72,869/- for all the five years put together. He further submitted that an appeal was

preferred against the said assessment orders before the 1st Respondent and the same is pending consideration. As a matter of fact, it is submitted that the matter has been heard and orders were reserved and awaiting pronouncement. In the meanwhile, refund is due to the Petitioner pursuant to the assessment made for the assessment year 2021-22 to the extent of Rs.1,91,81,434/-. He further submitted that there is threat of coercive steps to recover / set off the refund due towards the liability for the assessment years 1998-99, 1999-2000, 2000-01, 2001-02 and 2002-03, which is the subject matter of challenge in appeal as set out above.

3. It is submitted by the learned Senior Standing Counsel for the Respondents that the Revenue has already set out / adjusted the refund for some of the years, although the exact numbers are not available.

4. In such view of the matter, if the Petitioner intends to seek protection against any coercive proceedings, it is always open to the Petitioner to approach the appropriate authority under Section 220(6) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by filing stay

application pending appeal. The Petitioner may move an application under Section 220(6) of the Act within a week from today. If any such application is filed, the same shall be disposed of within a period of ten days from the date of receipt of such application in accordance with law. The above order will not have any bearing on adjustments, if any, already made. It is made clear that this Court has not expressed any view with regard to the merits of the matter and it is open to the appropriate Respondents to consider the same on its own merits.

5. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

02.11.2022

Index : Yes / No
Speaking Order : Yes / No

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Note: Issue order copy by 03.11.2022.

To

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MOHAMMED SHAFFIQ, J.

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