IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.7800 of 2022
and
W.M.P.No.7821 of 2022

M/s.Nandanvan Seamless Developers LLP,
Represented by its Partner,
Vishal Surana ... Petitioner

Vs.

1. The Central Board of Direct Taxes,
   Represented by its Chairperson,
   Department of Revenue – Ministry of Finances,
   Government of India,
   New Delhi.

2. Assistant Commissioner of Income Tax,
   Non Corporate Circle – 5(1),
   No.16, Greams Road,
   Chennai – 600 006.

3. Commissioner of Income Tax-(Appeals),
   National Faceless Appeal Centre,
   Delhi.

4. The Additional / Joint / Deputy / Assistant Commissioner
   of Income Tax / Income-tax Officer,
   National Faceless Assessment Centre,
   New Delhi. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus to direct the first respondent to enable the option in the income tax portal of the petitioner to file a stay application in e filing in acknowledgement number 684694360151021 dated 15.10.2021 pending before the third respondent for the assessment year 2015-2016.

For Petitioner	: S.Gautham Venkata Narayanan
For Respondents	: Dr.B.Ramaswamy Senior Standing Counsel

ORDER

The petitioner has filed this Writ Petition for the following relief:-

"This writ petition has been filed for a Writ of Mandamus directing the first respondent to enable the option in the income tax portal of the petitioner to file a stay application in e filing in acknowledgement number 684694360151021 dated 15.10.2021 pending before the third respondent for the assessment year 2015-2016."

2. The petitioner had suffered Assessment Order for the Assessment Year 2015-2016 on 27.09.2021.

3. Aggrieved by the same, the petitioner has filed appeal before the Commissioner of Income Tax – (Appeals)/third respondent herein on 15.10.2021 which has been duly acknowledged.

4. Meanwhile, the petitioner had attempted to file an application under Section 226 of the Income Tax Act, 1961 to stay the recovery proceedings. Same was rejected by the Assessing Officer viz., the second respondent on 28.10.2021.

5. Under these circumstances, the petitioner approached the Principal Commissioner of Income Tax to keep the demand in abeyance. The Principal Commissioner of Income Tax has also rejected the same by an order dated 01.03.2022. Till date the petitioner has not deposited any amount.

6. The learned counsel for the petitioner submits that the petitioner's bank account has also been attached during the interregnum. At this stage, the learned counsel for the petitioner submits that suitable directions may be given to the Appellate Commissioner viz., the third respondent herein to dispose the appeal on merits and in accordance with law.

7. The learned Senior Standing Counsel for the respondents submits that there are other appeals that are pending and therefore the petitioner cannot expect the appeal to be taken up out of turn. It is submitted that unless the petitioner pre deposit the aforesaid amount, the respondents are duty bound to initiate recovery proceedings by attaching the property of the petitioner.

8. Considering the fact that the appeal was filed on 15.10.2021, the Court is inclined to dispose the writ petition by directing the respondents to dispose the petitioner's appeal within a period of six (6) months from the date of receipt of a copy of this order. The writ petition stands disposed with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2023

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No

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To

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C.SARAVANAN, J.

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