



WEB COPY



W.P.No.9376 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.9376 of 2023 and
WMP.Nos.9474 & 9475 of 2023

Global Arkitekts Private Limited
Represented by its Director
Nemam Kurral Vijay Kumar Krishna,
No.33, Shafee Mohammed Road,
Greens Road, Rutland Towers,
Chennai-600 006.

... Petitioner

Vs

1.Assistant Commissioner of Income Tax,
DC/AC Central Cir 1(2),
3rd Floor, Investigation Building,
46 MG Road, Nungambakkam,
Chennai-600 034.

2.Tax Recovery Officer,
TRO Central 1,
Room 118, 1st Floor,
Investigation Building,
46 MG 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 to call for the records of the 1st Respondent in his proceedings leading up to the Impugned Order dated 10.01.2022 bearing number ITBA/COM/F/17/2021-22/1038600451(1) issued



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by the 1st Respondent and quash the same and to consequently direct the Respondents to stay the recovery of tax demand and attachments of the Properties and Bank Accounts of the Petitioner until the disposal of the appeal by the Commissioner of Income Tax (Appeals).

For Petitioner : Mr.Kumarpal Chopra

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 this writ petitioner at this juncture.

2.The challenge is belated as it relates to an order dated 10.01.2022 rejecting the application for stay of recovery pending appeal filed before the Commissioner of Income Tax (Appeals) challenging an order of assessment passed under the provisions of Income Tax Act, 1961 (in short 'Act').

3.The petitioner has thereafter filed a stay application yet again before the assessing officer on 22.11.2021 which is stated to be pending. It has also filed a representation before the Tax Recovery Officer on 03.01.2023 seeking a stay of demand which has been rejected on 11.01.2023, the officer citing an absence of an order of stay passed by any appropriate authority.



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4. Bearing in mind, the trajectory of events as aforesaid, particularly the fact that the impugned order is more than a year old, I see no necessity to intervene at this juncture.

5. This writ petition is dismissed granting liberty to the petitioner to move a stay application before a superior authority, either before the Administrative or the Appellate Commissioner of Income Tax seeking stay, pending appeal. Such stay application, if instituted, will be disposed by the authority within a period of four (4) weeks from date of such institution, after hearing the petitioner and in accordance with law. No costs. Connected miscellaneous petitions are closed.

27.03.2023

vs

Index : Yes / No

Speaking Order

Neutral Citation : Yes/No

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Dr.ANITA SUMANTH,J.

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