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W.P.No.7313 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.7313 of 2020
and W.M.P.Nos.8735,8737 & 8741 of 2020

M/s NAC Jewellers Private Limited
Rep. By its Director Mr.N.Anantha Padmanaban
No.58, North Mada Street,
Mylapore, Chennai – 600 004. .. Petitioner

VS

- 1.The Assistant Commissioner of Income-Tax,
Central Circle 3(1), Room No.316, New No.46,
Mahatma Gandhi Road, Nungambakkam
Chennai – 600 034.
- 2.The Principal Commissioner of Income-Tax,
Central Circle 3, No.46, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034. .. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorari calling for the records of first
respondent in ITBA/AST/S/143(3)/2019-20/1023553473(1) dated
31.12.2019 for Assessment Year 2017-18 and quash the same.

For Petitioner	:	Mr.Amrith Bhargav
For Respondents	:	Mr.A.P.Srinivas Senior Standing Counsel



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ORDER

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Heard Mr.Amrith Bhargav, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents.

2. The following order was passed, at the time of admission, on 23.03.2020:-

" Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and seeks sometime to obtain instructions and file a counter.

2. The challenge is to the order passed in the Stay Application wherein the second respondent, i.e., the Principal Commissioner of Income Tax, rejects the request of the petitioner for absolute stay and directs the assessee to remit the disputed demand in instalments of Rs.One Crore each by 16.03.2020 and 26.03.2020 and Rs.70.00 lakhs by 30.03.2020, subject to which, collection will be stayed for three (3) months or disposal of appeal by Commissioner of Income Tax (Appeals) (in short 'CIT(A)'), whichever is earlier.

3. The Officer also refers to a report filed by the Assessing Officer to the stay application, a copy of which admittedly has not been supplied to the petitioner.

4. The assessee has in application dated 26.02.2020 recorded the payment of Rs.25.00 lakhs on 14.02.2020 and has undertaken to remit another Rs.25.00 lakhs in the forthcoming period. However, the second instalment has not been remitted on account of the economic and commercial strain faced by the petitioner on account of the COVID



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pandemic. The petitioner is in appeal before the CIT(A).

5. A perusal of the order of assessment also indicates that none of the materials stated to have been filed by the petitioner before the Assessing Officer have been considered, specifically, information stated to have been submitted on 20.12.2019 and 28.12.2019, running to around 5000 pages.

6. In the light of the aforesaid, interim stay of recovery till 05.06.2020.

7. List on 05.06.2020. Counter by then with a copy served in advance served upon the petitioner."

3. Since the petitioner is pursuing the appeal filed before the Commissioner of Income-Tax Appeals, I am of the considered view, and learned counsel will accede to this position, that the matters must be left with the Appellate Authority for appropriate decision in accordance with law.

4. Since the petitioner is the beneficiary of interim protection by way of stay of recovery from 23.03.2020, stay shall be continued for a period of four weeks within which time, the petitioner may approach the appellate authority for appropriate orders on continuation of stay or otherwise. It is made clear that the interim stay granted by this Court shall lapse on 05.04.2023.



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5. With this and since nothing further survives in this writ petition as the challenge is to an order of assessment which is pending appeal, this writ petition and the connected miscellaneous petitions are closed. No costs.

08.03.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

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