IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.13748 of 2023
and WMP Nos.13428 & 13430 of 2023

Sri AN And Sons Inc
Sole Proprietorship Concern
Represented by its Proprietor
N.Shantilal,
AC-8, Old No.137, Second Avenue, Anna Nagar,
Chennai-600 040.
Pan Number: AACPS4084N
Formerly Known As
Sri AN And Sons Inc
Partnership Firm
AC-8, Old No.137, 2nd Avenue, Anna Nagar,
Chennai-600 040.
Pan Number: ABVFS1236L ... Petitioner

Vs

1.Assessment Unit
Income Tax Department
New Delhi

2.The Income Tax Officer,
Non Corp, Ward - 10(3) Che
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034 ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the 1st Respondent in PAN. ABVFS1236L and quash the impugned order in ITBA/AST/S/147/2022-23/1050784103(1) dated 15.03.2023 passed under

Section 147 read with section 144B of the Income Tax Act, 1961 for the Assessment Year 2015-16.

For Petitioner : Mr.Raghav Rajeev Menon
For Respondents : Mr.R.S.Balaji
Senior Standing Counsel

O R D E R

Read this order in conjunction with and in continuation of order dated 01.06.2023 that reads as follows:

Ms.Premalatha, learned Junior Standing Counsel accepts notice for the respondents and seeks some time to obtain instructions and file a counter.

2. After some hearing, learned counsel for the petitioner prefers to file a statutory appeal accompanied by a stay application for interim protection.

3. At his request, list on 12.06.2023 at the end of admission list.

2. Today, Mr.Raghav Rajeev Menon, learned counsel for the petitioner states that appeal has been filed before the National Faceless Appeal Centre (in short 'NFAC') and the stay application has been filed before the Jurisdictional Assessing Officer (in short 'JAO')/R2.

3. The impugned order in this case is dated 15.03.2023 and the Writ Petition has been instituted on 18.04.2023. Hence, the institution of the present Writ Petition has been a few days beyond the period of limitation.

4. Learned counsel for the respondents does not, bearing in mind the smallness of the period, fairly raise any objection to the maintainability of the appeal itself. Thus, subject to the appeal maintainable on all other aspects, the same shall be entertained by the Registry of the NFAC without reference to limitation.

5. In light of the same, this Writ Petition stands dismissed. Let notice be issued on the stay application fixing a date for personal hearing within a period of two (2) weeks from date of receipt of a copy of this order, the petitioner heard on the date so fixed and the stay application disposed within a period of four (4) weeks from date of personal hearing, i.e., on or before 24.07.2023. Till then, there shall be a stay of recovery of the demand.

6. It is made clear that if the petitioner does not appear on the date fixed by the JAO/R2, the petitioner loses the benefit of this order and the respondents are at liberty to proceed with the matter in accordance with law, as they think fit. No costs. Connected Miscellaneous Petitions are also dismissed.

12.06.2023

Index : Yes / No
Speaking/non-speaking Order
Neutral citation:Yes/No
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Dr.ANITA SUMANTH,J.

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To

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New Delhi

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