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W.A.No.2437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2437 of 2023
AND
C.M.P.Nos.20403 & 20404 of 2023

Treadsdirect Limited
PAN : AAACE9328C
2000 Trichy Road, Singanallur Post
Coimbatore 641 005
Now known as Elgi Rubber Company Limited
Rep. by its Chief Financial Officer
S.R.Venkatachalam

.. Appellant

Vs.

1.The Assistant Commissioner of Income Tax
Corporate Circle-I
Main Building #63, Race Course Road
Coimbatore 641 018

2.The Income Tax Officer
Assessment Unit
National Faceless Assessment Centre
Income Tax Department
Ministry of Finance
Room No.401, 2nd Floor, E-Ramp
Jawaharlal Nehru Stadium
Delhi 110 003



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3.The Commissioner of Income Tax (Appeals)
National Faceless Assessment Centre
Income Tax Department
Ministry of Finance
Delhi 110 003

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.06.2023 passed in W.P.No.16689 of 2023 on the file of this Court.

For Appellant : Mr.M.P.Senthilkumar
For Respondents : Mrs.S.Premalatha
Standing Counsel

JUDGMENT

[Judgment of the court was delivered by R.MAHADEVAN, J.]

Challenging the order dated 09.06.2023 passed by the learned Judge in W.P.No.16689 of 2023, the writ petitioner / assessee has filed this writ appeal.

2. According to the appellant company, they were dissolved without winding up with effect from 01.04.2010, as per the order of the company court in CP.Nos.266 to 270 of 2010 dated 16.12.2010 and they were not at all in existence during the financial year 2014-15. While so, a notice under section 148 of the



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Income Tax Act, 1961 was issued on 29.03.2021 on the premise that the appellant was involved in financial transactions during the financial year 2014-15, following which, notice under section 142(1) of the Act, came to be issued, to which, the appellant filed its detailed response on 25.02.2022 *inter alia* stating that Treadsdirect Limited (AAACE9328C) was amalgamated with Elgi Rubber International Limited (AABCE9596M) with effect from 01.04.2010; subsequently, Elgi Rubber International Limited was renamed as Elgi Rubber Company Limited as per fresh certificate of Incorporation, dated 07.04.2011 issued by the Registrar of Companies, Ministry of Corporate Affairs; some of the customers wrongly credited TDS of Elgi Rubber Company Limited in the old PAN of the appellant company from the year 2011 onwards, even though they were informed about the amalgamation, change of PAN and also change of name of the company; and thus, the financial transactions for the year 2014-15 do not relate to the appellant, but they related to its group companies. Thereafter, the second respondent issued a show cause notice dated 23.03.2022. Upon receipt of the same, the appellant sent a communication dated 28.03.2022 treating the explanation sent on 25.02.2022 as its response. Ultimately, the Assessing Officer completed the assessment under section 147 r/w 144 r/w 144B on 29.03.2022, making addition of Rs.5,13,82,411/-



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under section 69A of the Act. Feeling aggrieved, the appellant filed rectification petition before the first respondent on 26.04.2022, which was disposed of on 17.01.2023, computing the total demand at Rs.4,35,11,333/-. Challenging the same, the appellant preferred an appeal before the third respondent and the same is pending. In the mean while, they moved a stay petition before the first respondent on 01.02.2023, which was rejected, vide order dated 21.02.2023 by observing that the appellant's request for stay would be considered upon payment of 20% of demand within seven days from the date of receipt of the same. Aggrieved by the same, the appellant filed WP.No.16689 of 2023 to set aside the said order of the first respondent dated 21.02.2023 and direct the first respondent to grant stay of collection of outstanding tax demanded pending disposal of the appeal by the third respondent. By order dated 09.06.2023, the learned Judge dismissed the said writ petition. Therefore, the appellant is before this court with the present writ appeal.

3. Though the appellant raised very many grounds in the writ appeal assailing the order passed by the learned Judge in the writ petition, the learned counsel for the appellant submitted that the first respondent imposed pre-condition of deposit of 20% of the demand raised, for grant of stay, which comes to



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Rs.87,02,266/- and the same is very huge and hence, the pre-condition may be reduced to Rs.40 lakhs (i.e.) around 10% of the demand raised, which shall be paid by the appellant in two equal instalments.

4. The learned Standing Counsel taking notice for the respondents, has no serious objection for the same.

5. As agreed by the learned counsel appearing for both sides, and also having regard to the fact that the challenge before the writ court was only to rejection of stay order in respect of collection of demand raised against the appellant, till the disposal of the appeal pending before the third respondent, this Court is inclined to pass the following order:

(i) The order of the learned Judge passed in the writ petition is set aside. Consequently, the order of the first respondent is modified by granting an order of stay, subject to the condition that the appellant shall pay Rs.40 lakhs (i.e.) around 10% of the demand raised to the authority concerned, which shall be paid in two equated monthly instalments and the first installment be paid on or before 15.10.2023 and the second/final installment be paid on or before 15.11.2023.



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(ii) It is made clear that the said conditional amount is agreed to be paid by Elgi Rubber Company Limited on behalf of the appellant Treadsdirect Limited (PAN : AAACE9328C) and in the event of the appellant succeeding before the competent authority, the refund be effected in favour of Elgi Rubber Company Limited, who makes the conditional payment.

(iii) Any default on the part of the appellant in payment of instalments within the time stipulated, the respondent authorities shall proceed further in the manner known to law.

6. This writ appeal stands disposed of in the above terms. No costs.

Connected miscellaneous petitions are closed.

[R.M.D.,J.] [M.S.Q., J.]
22.09.2023

Internet : Yes
Neutral Citation: Yes / No
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Issue order copy by 25.9.2023

To
1.The Assistant Commissioner of Income Tax
Corporate Circle-I
Main Building #63, Race Course Road
Coimbatore 641 018



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