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W.P.No.31682 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.31682 of 2023

and

W.M.P.No.31310 of 2023

Anamallais Bus Transports P Ltd,
(Represented by its Directors),
92, NachimuthuGounder Street,
Coimbatore – 642 002.
PAN:AAACU3310N

... Petitioner

Vs.

1.The Principal Commissioner of Income Tax-1,
Coimbatore,
Income Tax Department,
Main Building, 63, Race Course Road,
Coimbatore – 641 018.

2.The Income Tax Officer,
Corporate Ward1,
Income Tax Department,
Main Building,
63, Race Course Road,
Coimbatore – 641 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the writ petitioner on the file of the first respondent to quash the impugned order dated



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09.10.2023 passed for the Assessment Year 2018-19 DIN & Letter
No:ITBA/COM/F/17/2023-24/1056896306(1).

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For Petitioner : Mr.A.S.Sriraman
For Respondents : Mr.R.S.Balaji
Senior Standing Counsel
assisted by
Mrs.S.Premalatha
Junior Standing Counsel

ORDER

This Writ Petition has been filed challenging the order dated
09.10.2023 passed by the respondent.

2. The main grievance of the petitioner is that the petitioner-
assessee-Company has advanced a sum of Rs.14,00,00,000/- to M/s. Shakti
Sugar Ltd., and M/s.Shakti Sugar Ltd., on the request of the petitioner-
assessee-Company, (since M/s. Shakti Sugar Ltd., is liable to pay
Rs.14,00,00,000/- to the petitioner) made the repayment of the said sum to
three entities, viz., M/s.Hapline Commodities Ltd, ii) M/s.Padam Sugar
Company and iii) M/s.Medicare Clinic Pvt. Ltd to a sum of Rs.3,55,00,000/-,
Rs.4,59,50,000/- and Rs.20,50,000/- respectively, and the petitioner-Compay
is liable to pay sum of Rs.8,75,00,000/- to all the three entities, and



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accordingly, the suitable entries have been made in the books of M/s. Shakti Sugar Ltd and also in the books of the assessee company, with regard to the reduction of liabilities of M/s. Shakti Sugar Ltd.

4. Mr.A.S.Sriraman, learned counsel for the petitioner would submit that there was no cash transaction made by the petitioner and the same has also been clearly stated in the audited books of accounts and therefore, there is no violation of the provisions of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). In spite of that, the respondent/Assessing Officer passed the assessment order imposing the penalty under Section 271-E of the Act. Against the said order, an appeal has been filed by the petitioner along with an application for stay, however, the respondent/Appellate Authority directed the petitioner to pay 20% of the demand. Hence, the present writ petition has been filed.

5. On the other hand, Mr.R.S.Balaji, learned Senior Standing Counsel assisted by Ms.S.Premalatha, learned Junior Standing Counsel for the respondent would submit that in a similar issue, this Court has already passed an order directing the respondent/Appellate authority to dispose of the



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appeal within a period of eight (8) weeks from the date of receipt of the order,
without insisting upon any deposit

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6. Heard both sides and also perused the materials available on record.

7. The petitioner-Assesse has advanced a sum of Rs.14,00,00,000/- to M/s. Shakti Sugar Ltd., which, in turn, made repayment to the 3 entities viz., M/s. Hapline Commodities Ltd, M/s.Padam Sugar Company and M/s. Medicare Clinic Pvt., to a sum of Rs.3,55,00,000/-, Rs.4,59,50,000/- and Rs.20,50,000/- respectively. The said sum of Rs.14,00,00,000/- was paid by M/s. Shakti Sugar Ltd on the request made by the petitioner, since M/s. Shakti Sugar Ltd is liable to pay Rs.14,00,00,000/- to the petitioner-Company and with regard to such payments, suitable entries have also been made both in the books of M/s. Shakti Sugar Ltd., and also in the petitioner-Company and the same has been reflected in the audited books of accounts.

7.1 On a perusal of records, it is revealed that the transactions between the two concerns, whereby, the liability of M/s. Shakti Sugar Ltd.,



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has been reduced to an extent on payment made to clear the liabilities of the assessee company appears to be in accordance with law and it is permissible.

Hence, the question of dealing with cash transaction does not arise. In the present case, the Assessing Officer concerned, proceeded, as if, there was a cash transaction, and therefore, construed the entire repayment of loan by M/s. Shakti Sugar Ltd. as income of the petitioner and proceeded in accordance with law in terms of the Income Tax Act.

7.2 As discussed above, with regard to the grant of loan by the petitioner to M/s. Shakti Sugar Ltd. and repayment of the same made by M/s. Shakti Sugar Ltd. to the aforesaid three entitled based on the instructions of the petitioner and as regards the discharge of liabilities, suitable entries have been made both in the books of account of the petitioner as well as M/s. Shakti Sugar Ltd. and in a similar way, the same was reflected in the audited books of account. When such being the case, initiation of proceedings against the petitioner appears to have been made under a wrong assumption that there was cash transaction. However, all these aspects have not been dealt with by the Assessing Officer and the same can be gone into by the Appellate Authority in an Appeal pending before him.



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7.3 Therefore, this Court, prima facie is of the view that the entire penalty proceedings passed under Section 271-E of the Act is liable to be set aside. Accordingly, this Court directs the Appellate Authority concerned to take the petitioner's Appeal on file without insisting upon any pre-deposit and consider the issues that were discussed by this Court in this order and thereafter, shall dispose the appeal in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2023

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Internet:Yes

Index : Yes / No

Speaking order/Non-Speaking order

Neutral Citation : Yes / No



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To

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KRISHNAN RAMASAMY, J.

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