IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.33886 of 2023 &
WMP.No.33743 of 2023

Vaidhyanadhan ... Petitioner

Vs.

1.The Commissioner of Income Tax (Appeals),
Office of the Commissioner of Income Tax,
Income Tax Department,
Aayakar Bhawan, No.121, M.G. Road,
Nungambakkam, Chennai 600 034.
2. The Income Tax Officer,
Office of the Income Tax Officer,
Income Tax Department,
Non Corp. Ward 3(5),
Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned demand notice issued by the 2nd respondent in DIN & Letter No.ITBA/COM/F/17/2023-24/1052417247(1), dated 28.04.2023 for the assessment year 2018-19, quash the same and direct the 2nd respondent not to initiate any recovery proceedings till the disposal of the statutory appeal preferred by the petitioner before the 1st respondent.

For Petitioner	:	Ms.D. Kalaiselvi for Mr.T. Bashyam
For Respondents	:	Dr. B. Ramaswamy, Senior Standing Counsel

ORDER

This Writ Petition is filed challenging the demand notice issued by the 2nd respondent, dated 28.04.2023 for the assessment year 2018-19 and for a consequential direction directing the 2nd respondent not to initiate any recovery proceedings till the disposal of the statutory appeal preferred by the petitioner before the 1st respondent.

2. Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that an assessment order was passed by the Income Tax Department for the AY 2018-19 on 28.03.2023,

pursuant to which, impugned demand notice dated 28.04.2023 was issued by the 2nd respondent demanding tax. He further submitted that the petitioner has preferred an appeal against the assessment order dated 28.032023 before CIT (Appeals) challenging the addition made in cash deposits. In this regard, the petitioner gave a representation dated 12.09.2023 before the Assessing Officer for stay of demand till the disposal of the appeal on the ground that the assessee is not under default and the said application is still pending for consideration, therefore, he submitted that once stay is granted, automatically the recovery proceedings are liable to be set aside. Thus, he prayed for allowing this writ petition.

3. In reply, the learned Senior Standing counsel appearing for the respondents submitted that the petitioner's representation dated 12.09.2023 requesting for stay of demand has now been dismissed by virtue of the order passed by the department dated 13.12.2023 and in view of the above, this writ petition has become infructuous.

4. Recording the submissions of the learned Senior Standing Counsel appearing for the respondents, since the representation dated 12.09.2023 filed by the petitioner seeking stay of demand was rejected by the department by virtue of order dated 13.12.2023, nothing survives in this writ petition. Hence, the same is hereby dismissed as infructuous. It is made clear that now there is no embargo for the respondents to proceed with the demand. No costs. Consequently, the connected miscellaneous petition is closed.

15.12.2023

msr
Index:Yes/No
Internet:Yes/No

To

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KRISHNAN RAMASAMY, J.

msr

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