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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.35582 & 35589 of 2023
and
W.M.P.Nos.35523 & 35524 of 2023

Lawrence Educational Trust,
Rep by its Managing Trustee,
Mr.A.Lawrence, S/o.Annamalai,
Lawrence Nagar, Moulivakkam,
Chennai 600 116.

... Petitioner in both petitions

Vs.

1.The Commissioner of Income Tax (Exemptions),
121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

2.The Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre,
Income Tax Department, Ministry of Finance,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi 110 003.

3.The Income Tax Officer (Exemptions),
Ward-2, 121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

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4.The Branch Manager,
Bank of Baroda,
3/36, South Mada Street,
Kovoor, Kancheepuram District,
Tamil Nadu 602 101.

5.The Branch Manager,
Karur Vysya Bank Limited,
No.65/1, Kundrathur Road,
Madanandapuram,
Porur, Chennai 600 116.

6.The Branch Manager,
Axis Bank,
Moulivakkam Branch,
5C/211, Kundrathur Main Road,
Moulivakkam, Chennai 600 125.

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 3rd respondent to remove the attachments placed on the petitioner's bank accounts with the 4th, 5th and 6th respondents in relation to the outstanding demand for the Assessment Year 2015-16 and 2021-22 respectively.

For Petitioner
in both petitions : Mr.G.Baskar

For Respondent
in both petitions : Mr.V.Mahalingam,
Senior Standing counsel for R1 to R3

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ORDER

These writ petitions have been filed to direct the 3rd respondent to remove the attachments placed on the petitioner's bank accounts with the 4th, 5th and 6th respondents in relation to the outstanding demand for the Assessment Year 2015-16 and 2021-22 respectively.

2. Mr.V.Mahalingam, learned Senior Standing counsel, takes notice on behalf of the respondents 1 to 3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the respondent had passed the assessment order for the assessment year 2015-16 on 28.12.2017, wherein they had quantified the tax liability as a sum of Rs.1,76,92,890/-. Thereafter, they passed the assessment order for the assessment year 2021-22 on 30.11.2023, wherein they quantified the the tax liability as a sum of Rs.37,15,329/-.

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4. Further, he would submit that so far the respondent had collected around a sum of Rs.62,00,000/- from the petitioner, which would be around 30% of the total tax liability of the petitioner pertaining to the assessment years 2015-16 and 2021-22. As per the provisions of the Act, once the petitioner paid 20% of the tax liability, the recovery proceedings pertaining to the assessment order will be stayed automatically. Accordingly, in the present case, since around 30% of the tax liability has already been collected from the petitioner, a stay application was filed by the petitioner to lift the attachment order on 10.02.2022 and the same has not been disposed of by the respondent till date. Hence, the present writ petitions.

5. The learned counsel for the respondent would fairly submit that an Assessee is certainly entitled for the stay of recovery proceedings, if he paid 20% of tax liability to the Department. In the present case, since the petitioner had already paid around 30% of tax liability, the recovery proceedings may be stayed upon production of proof with regard to the

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payment of said 30% of tax liability. Hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

7. In the present case, the total liability of the petitioner is a sum of Rs.2,14,08,219/- (Rs.1,76,92,890 + Rs.37,15,329), out of which, according to the petitioner, around a sum of Rs.62,00,000/- i.e., 30% of the tax liability, has already been recovered by the respondent. Further, the petitioner had also produced the proof with regard to the said payment before this Court. Therefore, it is clear that the Department had already collected around 30% of the tax liability. In terms of the provisions of the Act, if 20% of the tax liability is paid to the Department, the Assessee will be automatically entitled for stay of recovery proceedings, which were initiated against him. When such being the case, since the petitioner had remitted around a sum of Rs.62,00,000/-, which comes around 30% of the tax liability, the

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continuation of bank attachment will prejudicially affect the interest of the petitioner. Hence, this Court is inclined to lift the bank attachment issued against the petitioner. Accordingly, the bank attachment issued by the respondent stand lifted. Further, the respondent is directed to dispose of the stay application filed by the petitioner by taking into consideration of the payment of 30% of the tax liability made by the petitioner.

8. Further, it appears that the impugned order was passed by the respondent on 30.11.2023, in which case, the time limit for filing appeal is not expired. Hence, if the petitioner preferred to file the appeal, this Court does not find any impediment for the appellate Authority to entertain the said appeal since the petitioner had already paid 30% of the tax liability.

9. In view of the above order passed by this Court, the respondent-bank is directed to permit the petitioner to operate their accounts upon production of this order copy.

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10. With the above direction, these writ petitions are disposed of. Consequently, the connected miscellaneous petitions are also closed. No cost.

20.12.2023

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

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Nungambakkam, Chennai 600 034.

2.The Commissioner of Income Tax (Appeals),
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Income Tax Department, Ministry of Finance,
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