



W.P.(MD) No.7182 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.7182 of 2023
and
W.M.P.(MD) No.6774 of 2023**

Mahalakshmi Textile Mills Limited,
through its Managing Director,
L.Alagusundaram,
S/o. AL.Lakshmanan,
aged about 49 years,
Door No.777/P,
Thirteenth Main,
Indira Nagar,
Bangalore 560 008.

... Petitioner

/vs./

The Deputy Commissioner of Income Tax,
Corporate Circle,
Income Tax Department,
C.R.Building,
Door No.2,
V.P.Rathinasamy Nadar Road,
B.B.Kulam,
Madurai 625 002.

... Respondent



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to permit the petitioner company to pay the sum of Rs.1,00,00,000/- in ten monthly installments of Rs. 10,00,000/- each commencing from the month of April, 2023.

For Petitioner : Mr.J.Barathan
For Respondent : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The above writ petition has been filed for the issue of a Writ of Mandamus directing the respondent to permit the petitioner company to pay the sum of Rs.1,00,00,000/- in ten monthly installments of Rs.10,00,000/- each commencing from the month of April, 2023.

2.The petitioner company had been wound up by orders in C.P.No.68 of 1985. The official liquidator had been appointed to take charge of the affairs of the company and as a result any legal proceeding initiated without impleading the official liquidator was non-est in the eye of law. Meanwhile, the respondent had passed an assessment order on 07.10.2022 demanding payment of Rs. 1,33,45,480/- under Section 143(1)(a) of the Income Tax Act, 1961, (*herein after*



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referred to as Act) for the assessment year 2021-2022, which is payable on or before 14.10.2022.

3.The petitioner, who was not in a position to repay this huge amount, had sent a representation dated 20.12.2022 requesting the respondent to permit him to pay the said sum in easy installments. In response to the above letter, the petitioner, vide letter dated 29.12.2022, was directed to pay the above sum in three installments, which is as follows:-

“a) a sum of Rs.31,83,690/- was directed to be paid on or before 06.01.2022;

b) a sum of Rs.50,00,000/- was directed to be paid on or before 31.01.2023; and

c) further a sum of Rs.50,00,000/- was directed to be paid on or before 28.02.2023;”

4.This was totally unworkable as far as the petitioner is concerned and on 20.01.2023, the petitioner had paid a sum of Rs.20,00,000/- and on 31.01.2023, a further sum of Rs.11,83,690/- had also been paid thereby clearing the first installment of Rs.31,83,690/-. With regard to the remaining amount of Rs. 1,00,00,000/-, the petitioner company was unable despite its best efforts to make



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the payment on the due dates directed. Therefore, they have requested the respondent to receive a sum of Rs.1,00,00,000/- in 10 equated monthly installments commencing from April, 2024.

5.The petitioner would submit that the properties of the company are under litigation in execution proceedings and that apart, the petitioner did not have the resources to pay such a huge sum. Since the respondent was reluctant to accept the same, the petitioner has come forward with the above writ petition.

6.The learned counsel for the petitioner submitted a calculation memo showing the manner in which the outstanding was to be repaid by the petitioner to the Department.

7.The learned Standing Counsel for the respondent would submit that the respondent has already considered the request of the petitioner for payment in installments and had also granted the said installments and the respondent cannot once again grant further schedule of payment. However, without prejudice to their contentions, he has submitted a calculation sheet as detailed herein below:-



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Particulars	Amount	Interest u/s 220(2)		
Tax payable as per intimation u/s 143(1) dated 13.06.2022	13345480			
Less: Tax paid on 11.10.2022	150000	7/2022 to 10/2022=4M on Rs. 13345480/- @ 1%		533819
Balance Tax Payable	13195480			
Less: Tax paid on 20.01.2020 & 31.01.2023	3183690	11/2022 to 1/2023=3M on Rs.13195480/- @ 1%		395864
Balance Tax Payable	10011790	2/2023 to 3/2023=2M on Rs.10011790/- @ 1%		200236
				1129919
Monthly Installments:				
Month	Installment amount	Interest 220(2) calculation	Interest u/s 220(2)	Total Installment due
April'2023	1000000	10011790x1%=100118 +1129919 =1230037	1230037	2230037
May'2023	1000000	9011790x1%=90118	90118	1090118
June'2023	1000000	8011790x1%=80118	80118	1080118
July'2023	1000000	7011790x1%=70118	70118	1070118
Aug'2023	1000000	6011790x1%=60118	60118	1060118
Sep'2023	1000000	5011790x1%=50118	50118	1050118
Oct'2023	1000000	4011790x1%=40118	40118	1040118
Nov'2023	1000000	3011790x1%=30118	30118	1030118
Dec'2023	1000000	2011790x1%=20118	20118	1020118
Jan'2024	1011790	1011790x1%=10118	10118	1021908
Total	10011790		1681099	11692889



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8. Heard the learned counsels appearing on either side.

9. Admittedly, the petitioner company has been wound up and the entire affairs of the company now rest with the official liquidator. The petitioner company does not have any property, which can be easily sold to clear the dues of the respondent herein. However, the intent of the petitioner appears to be sincere despite the odds stacked against them.

10. Therefore, this Court is of the view that the petitioner must be permitted to show their *bona fides* and settle the dues. With this intent and in the interest of justice, the Writ Petition is allowed permitting the petitioner to pay the amount in installments. The calculation sheet provided by the respondent is taken as the calculation for the repayment of the amount.

11. In the calculation submitted by the respondent, the first installment payable is a sum of Rs.10,00,000/- together with interest of a sum of Rs. 11,29,919/-, totally a sum of Rs.22,30,037/-. This amount would be a little too steep for the petitioner to repay. Therefore, the first installment of Rs.22,30,037/-



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is split into two installments. The first of which will be a sum of Rs.11,29,919/- and the remaining shall be paid as the 11th installment and the amount due under the 11th installment would be a sum of Rs.10,21,908/-. It is needless to state that default of even one of the installments would bring an end to this concession shown to the petitioner. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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