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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20120 of 2023
and
W.M.P.(MD)No.16596 of 2023

Aark India Education Trust
Represented by its Chairman,
Dr.Cletus Babu,
Francis Xavier Engineering College
Campus, Vannarapettai,
Tirunelveli-627 003.

... Petitioner

vs.

1.The Commissioner of Income
Tax (Exemption),
Aayakar Bhawan,
No.121, Uthamar Gandhi Road,
Nungambakkam,
Chennai-600 034.

2.The Incometax officer (Exemption),
Exemption Ward, Rahamath Nagar,
Maharaja Nagar Post,
Tirunelveli.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records relating to the impugned order ITBA/COM/F/17/2023-24/105494456(1), dated 08.08.2023 and ITBA/COM/F/17/2023-24/1054942487(1), dated 08.08.2023, issued by the 2nd respondent and to quash the same and consequently, to direct the 2nd respondent to drop the proceedings till the final disposal of CIT (A), dated 06.10.2021 and W.A.(MD).No.2025 of 2021 pending before this Court.

For Petitioner : Mr.P.Karthick

For Respondents : Mr.J.PrakaSsh Kumar,
Senior Standing Counsel

ORDER

This writ petition has been filed for Certiorarified Mandamus, challenging the demand notice issued by the second respondent.



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2. The assessment order was passed by the Assessing Officer, aggrieved over the same, the petitioner has also preferred statutory appeal before the CIT (Appeal) on 06.10.2021. But, the CIT has not taken the said appeal for hearing and the same is still pending. In the meanwhile, since the Assessment Officer has issued the demand notice and demanded to pay 20% of the assessed tax amount which comes approximately Rs.6 Crores. Since the petitioner is an institution claiming exemption under 12(A), it is seen that the exemption is granted for subsequent years but not to the assessment years prior to the exemption. The petitioner has rightly preferred an appeal and the Commissioner (Appeals) ought to have considered the interim application.

3. Therefore, this Court is directing the Commissioner (Appeals) to consider the interim application filed by the petitioner within a period of 4 weeks from the date of receipt of a copy of this order. Until then, the impugned demand notice is stayed.



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4. With these observations and directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Index : Yes / No
Internet : Yes
NCC : Yes / No
Sml/Tmg

18.08.2023



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S.SRIMATHY, J

Sml/Tmg

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