IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.2664 of 2024
and
W.M.P.Nos.2940 & 2941 of 2024

K1471 Ms Veladipalayam Urban Cooperative Credit Society
Rep.by its Secretary MR.Senthil Kumar,
No.256/3, Shastri Street, Thadagam Main Road,
Velandipalayam, Coimbatore - 641 025. ... Petitioner

Versus

1.The Principal Commissioner of Income Tax,
PCIT, Coimbatore – 1.

2.The Income Tax Officer,
O/o. Income Tax Officer,
Non-Corp Ward, 3(1),
Coimbatore. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in respect of the order dated 29.11.2023 in C.No.117(35)/Stay Petition/PCIT-1/23-24 in DIN and Letter No.ITBA/COM/F/17/2023-24/1058314298(1) for the assessment year 2017-18 (ii) C.No. 117(35)/Stay Petition/PCIT-1/23-24 in DIN and Letter No.ITBA/COM/F/17/2023-24/1058314450(1) for the assessment year 2018-19 (iii) C.No. 117(35)/Stay Petition/PCIT-1/23-24 in DIN and Letter No.ITBA/COM/F/17/2023-24/1058314642(1) for the assessment year 2020-21 and quash the same insofar as it directs the petitioner to pay 20%

of the disputed demand in respect of Assessment Years 2017-18, 2018-19 and 2020-21 for grant of stay and consequentially direct the 1st respondent to stay the recovery of the tax demand for the Assessment Year 2018-19 until the disposal of the appeal by the 1st respondent.

For Petitioner : Mr. T. Sai Krishnan

For Respondents : Ms. S. Premalatha,
Junior Standing Counsel.

ORDER

The challenge is to an order passed by the appellate authority in the stay petition.

2. Learned counsel for the petitioner has placed before me an earlier order issued by me in W.P.No.2504 of 2024 dated 06.02.2024. He submits that the issue raised in this case is identical to that in the order referred to above.

3. Ms. S. Premalatha, learned junior standing counsel, agrees that this case is clearly covered by the earlier order. Accordingly, this case is liable to be disposed of on the same terms of W.P.No.2504 of 2024.

4. Hence, the impugned order is quashed and the matter is remitted to the appellate authority for reconsideration of the stay application after providing a reasonable opportunity to the petitioner. While reconsidering such stay application, the appellate authority shall take into account the existence of a *prima facie* case, the financial condition of the assessee and the balance of convenience and thereafter dispose of the stay application within a maximum period of three months from the date of receipt of a copy of this order.

5. The writ petition is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

01.03.2024

Index : Yes
Speaking Order : Yes
Neutral Case Citation: Yes

klt

To

1.The Principal Commissioner of Income Tax,
PCIT, Coimbatore – 1.

2.The Income Tax Officer,
O/o. Income Tax Officer,
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Coimbatore.

SENTHILKUMAR RAMAMOORTHY,J

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