IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.6305 & 6309 of 2024
and
W.M.P.Nos.7013, 7005 & 7006 of 2024

Aparajitha Foundations,
Rep by its Trustee,
Mr.Nagaraj Krishnan,
Block No.401, 4th Floor,
No.5A, Rathinasamy Nadar Road,
Bi Bi Kulam,
Madurai 625 002,
Tamil Nadu

... Petitioner in both petitions

Vs.

1.The Commissioner of Income Tax (Exemptions),
Aayakar Bhavan, Annexe III Floor,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

2.The Assistant Commissioner of Income Tax (Exemptions),
May Flower Mid City Building,
1510, Trichy Road,
Coimbatore 641 018.

3.The Assistant Commissioner of Income Tax,
National Faceless Assessment Circle,
Mayur Bhawan, Cannaught Lane,
Barakhamba, New Delhi 110 001.

4.The Commissioner of Income Tax,
National Faceless Assessment Circle,
Mayur Bhawan, Cannaught Lane,
Barakhamba, New Delhi 110 001.
... Respondents in W.P.No.6305 of 2024

1.The Assistant Commissioner of Income Tax (Exemptions),
May Flower Mid City Building,
1510, Trichy Road,
Coimbatore 641 018.

2.The Assistant Commissioner of Income Tax,
National Faceless Assessment Circle,
Mayur Bhawan, Cannaught Lane,
Barakhamba, New Delhi 110 001.

3.The Commissioner of Income Tax,
National Faceless Assessment Circle,
Mayur Bhawan, Cannaught Lane,
Barakhamba, New Delhi 110 001.
... Respondents in W.P.No.6309 of 2024

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in DIN & Letter dated 01.12.2023 and 28.02.2024 and bearing Nos.ITBA/COM/F/17/2023-24/1058567799(1) and ITBA/COM/F/17/2023-24/1061657409(1) respectively for the Assessment Year 2018-2019, issued by the 1st respondent, quash the same and consequently, direct the respondents to treat the peittioner as not being in default as per Section 220(6) of the Income Tax Act, 1961.

For Petitioner
in both petitions : Mr.P.Vinod Kumar

For Respondent
in both petitions : Mr.V.Mahalingam,
Senior Standing counsel

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 01.12.2023 and 28.02.2024 for the Assessment Year 2018-2019 and to direct the respondents to treat the petitioner as not being in default as per Section 220(6) of the Income Tax Act, 1961.

2. The learned counsel for the petitioner would submit that the original assessment orders were passed by the respondent-Department and the petitioner preferred an appeal against the said assessment orders

before the 4^{th} respondent. In the meantime, a stay petition was filed before the 2^{nd} respondent and the same was rejected and hence, the 2^{nd} stay petition was filed before the 1^{st} respondent, however, the same was also rejected. Hence, aggrieved over the dismissal of the aforesaid stay petitions, these writ petitions have been filed by the petitioner. After filing of this petition, this Court has granted an order of interim stay.

3. Further, he would submit that the appeals, which were filed against the original assessment orders, were pending before the respondents from 01.03.2022. Hence, he requests this Court to direct the respondents to dispose of the appeals filed by the petitioner and also requests to extend the interim order granted by this Court till the disposal of the aforesaid appeals.

4. In reply, the learned Senior Standing counsel for the respondents would request this Court to extend the interim order already granted by this Court, subject to the payment of 20% of the penalty amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents and also perused the entire materials available on record.

6. In the present cases, the applications filed by the petitioner for an order of stay was already rejected by two Authorities, i.e., the respondents 2 and 3. These petitions have been filed as 3rd attempt and after filing of these petitions, this Court granted the order of stay vide order dated 11.03.2024.

7. According to the petitioner, though they are not liable to pay any tax, the Assessment Officer had arrived at a conclusion that the petitioner was under-reporting, which is incorrect. When the stay application was filed, the respondents 2 and 3 had also rejected the same under the impression that the petitioner is under-reporting.

8. In view of the above, this Court feels it appropriate to direct the 4th respondent to dispose of the appeals filed by the petitioner. Accordingly, this Court passes the following order:

i) The 4th respondent/the Commissioner of Income Tax is directed to dispose of the appeals filed by the petitioner, against the original assessment orders dated 09.04.2021 and 31.01.2022, within a period of 4 months from the date of receipt of copy of this order.

ii) The interim order already granted by this Court vide order dated 11.03.2024 is extended till the disposal of the appeal filed by the petitioner.

9. With the above directions, these writ petitions are disposed of. No cost. Consequently, the connected miscellaneous petition is also closed.

07.08.2024

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

To

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KRISHNAN RAMASAMY.J.,

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