IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

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THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.12145 of 2024
and
W.M.P.Nos.13243 & 13244 of 2024

... Petitioner

Sri. Magunta Raghava Reddy Charitable Trust,
New No.17/1, Old No.9,
Bazullah Road, T.Nagar,
Chennai – 17.

Vs.

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

2. The National Faceless Appeal Centre,
   (NFAC),
   New Delhi.

3. The National Faceless Assessment Centre,
   New Delhi.

4. The Income Tax Officer,
   Exemptions Ward-4, Chennai,
   12 Mahatma Gandhi Road,
   Nungambakkam,
   Chennai -34. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in DIN & Notice Nos : ITBA / COM /F /17 / 2023 -24/1062233458(1) issued by the first respondent dated 08.03.2024 and quash the same and direct the second respondent viz the National Faceless Appeal Centre (NFAC) to dispose the petitioner's appeal filed on 16.04.2022 at an early date. ***[Prayer amended as per order dated 08.11.2024 in W.M.P.No.29863 of 2024 in W.P.No.12145 of 2024]***

For Petitioner : Mr.D.Anand
for Mr.Ashokapathy
For Respondents : Mr.S.Rajasekar
Standing Counsel

ORDER

This Writ Petition has been filed to challenge the recovery notice dated 08.03.2024 issued by the first respondent on the premise that the same is arbitrary and illegal.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Standing Counsel appearing for the official respondents and perused the materials available on record.

3. Learned counsel for the petitioner submitted that the petitioner is a Public Charitable Trust with the principal object of running of educational institution, providing medical relief to the needy, supply of free drinking water and other charitable purposes. The petitioner Trust runs 13 Junior Colleges and 3 Degree colleges at various towns and villages situated in backward areas of Prakasam and Nellore Districts of Andhra Pradesh. The petitioner Trust is registered under Section 12A(a) of the Income Tax Act vide proceedings of the Commissioner of Income Tax, Tamil Nadu-III, Madras 600 0034 in in C.No.1146-III(72)/86 dated 08.09.1986 and has also been granted exemptions under Section 80G of the Income Tax Act. An Assessment order came to be passed by the third respondent under Section 147 read with Section 144B of the Income Tax resulting in a demand of Rs.11,72,75,650/- vide proceedings dated 30th March 2022. Aggrieved by the same, the petitioner filed an appeal before the second respondent on 16.04.2022. The petitioner filed written submissions and thereafter no notice was served for about an year. Meanwhile, the fourth respondent issued demand notice dated 02.08.2023. Hence the petitioner preferred stay application before the

fourth respondent which was rejected with a direction to deposit 20% of the disputed tax vide order dated 05.09.2023. Subsequently, the petitioner filed a petition for grant of stay of collection of tax demand before the Director of Exemptions, Chennai. Whileso, Garnishee notice was issued under Section 226(3) of the Income Tax Act, 1961, to the Chief /Branch Manager, Bank of Baroda, Nellore, Andhra Pradesh vide order dated 13.02.2024. It is submitted that issuance of recovery notice during the pendency of appeal is wholly arbitrary and high-handed.

4. To the contrary, the learned counsel for the respondents submitted that the petitioner has not complied with the order directing deposit of 20% of the disputed taxes, resulting in recovery of the said amount.

5. To demonstrate the bonafides and taking into account the submission of the petitioner that the recovery proceeding is causing grave hardship to even run the Educational Institution, the petitioner may

deposit Rs.75 lakhs. The same was agreed by the learned counsel for the petitioner.

6. Learned counsel for the petitioner also requested that appeal may be disposed of within a particular time frame, to which the learned counsel for the respondents submitted that it may require 8 weeks to dispose of the appeal.

7. Considering the submissions made on both sides, this Court directs the petitioner to remit a sum of Rs.75 lakhs within a period of four weeks to the credit of the appeal. Subject to complying with the above condition, all attachment/recovery proceeding shall be kept in abeyance. The second respondent is directed to dispose of the appeal within a period of 8 weeks from the date of receipt of a copy of this order.

8. With the abovesaid direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.11.2024

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Index:Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No

To

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MOHAMMED SHAFFIQ, J.

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