IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16569 of 2024 &
WMP Nos.18178 & 18181 of 2024

Kanakiliyanallur Narayanan Nehru ... Petitioner

Versus

1. The Income Tax Officer,
Non-Corporate Ward-1(2),
Wanaparthy Block, Aayakar Bhawan,
121, Mahatma Gandhi Road,
Wanapathy Block, Nungambakkam,
Chennai-600 034.

2. The Principal Commissioner of Income Tax-1,
Room No.401, Wanaparthy Block,
Aayakar Bhawan,
121, Mahatma Gandhi Road,
Wanapathy Block, Nungambakkam,
Chennai-600 034.

3. The Commissioner of Income Tax (Appeals)
National Faceless Appeal Centre,
Income Tax Department, Ministry of Finance,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi-110 003. ...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records in DIN & Letter No.ITBA/COM/F/17/2024-25/1065437045(1) on 06.06.2024 on the file of the 2nd Respondent relating to the A.Y.2012-13 and quash the same.

For Petitioner	:	Mr.G.Baskar
For Respondents	:	Mr.K.Ramana Kumar Senior Standing Counsel

ORDER

An order dated 06.06.2024 by which the second respondent disposed of a stay petition is challenged in this writ petition.

2. Against an assessment order in respect of assessment year 2012-13, the petitioner filed an appeal before the appellate authority. Such appeal is pending for more than four years as on date. The petitioner had applied for an interim stay pending disposal of such appeal before the assessing officer. By order dated 22.05.2020, an interim stay was granted until 31.01.2021 or until the disposal of the first appeal, whichever is earlier. Since the period of stay had lapsed, the petitioner filed a stay petition before the second respondent on 11.08.2023. Such petition was disposed

of by the impugned order.

3. Learned counsel for the petitioner refers to instruction No.1914 and the amendments made thereto. He points out that financial stringency is not the only consideration for waiving the 20% pre-deposit and that the overall facts and circumstances should be taken into consideration. He further submits that the appeal should be disposed of expeditiously since more than four years have elapsed and the petitioner is a senior citizen. By referring to guidelines issued on 07.03.2024 with regard to the expeditious disposal of appeals, he submits that the petitioner's case qualifies for expeditious disposal both on account of the quantum of demand and on account of the fact that the petitioner is a senior citizen.

4. Mr.B.Ramanakumar, learned senior standing counsel, accepts notice for the respondents. He submits that protective additions were made in respect of several persons and that there is reason to believe that such additions may be confirmed as regards

the petitioner. In these circumstances, he submits that no case is made out for interference with the impugned order inasmuch as such order granted the petitioner the right to remit 20% in 18 installments.

5. The petitioner's appeal is on record. Such appeal was filed in January 2020. Therefore, more than four years have elapsed since the date of filing of the appeal. From the affidavit, it is evident that the petitioner is a senior citizen. In these facts and circumstances, a case is made out for expeditious disposal of the appeal.

6. As regards the application for stay, such application is required to be considered by taking into account the classical principles of *prima case* case, balance of convenience and financial stringency. On perusal of the impugned order, the second respondent appears to have taken into account the financial stringency pleaded by the petitioner and has permitted the petitioner to make the pre-deposit in 18 installments. Since I find

no infirmity in such order, I find no reason to interfere with the same.

7. For reasons aforesaid, W.P.No.16569 of 2024 is disposed of by directing the third respondent to dispose of the appeal filed by the petitioner on 14.01.2020 in respect of assessment year 2022-23 within four months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are also closed. No costs.

27.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

kal

To

1. The Income Tax Officer,
   Non-Corporate Ward-1(2),
   Wanaparthy Block, Aayakar Bhawan,
   121, Mahatma Gandhi Road,
   Wanapathy Block, Nungambakkam,
   Chennai-600 034.

2. The Principal Commissioner of Income Tax-1,
   Room No.401, Wanaparthy Block,
   Aayakar Bhawan,
   121, Mahatma Gandhi Road,
   Wanapathy Block, Nungambakkam,
   Chennai-600 034.

3. The Commissioner of Income Tax (Appeals)
   National Faceless Appeal Centre,
   Income Tax Department, Ministry of Finance,
   Room No.401, 2nd Floor, E-Ramp,
   Jawaharlal Nehru Stadium,
   Delhi-110 003.

SENTHILKUMAR RAMAMOORTHY,J

kal

W.P.No.16569 of 2024 &
WMP Nos.18178 & 18181 of 2024

27.06.2024