IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM :
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.25713 of 2022

N.S.B.Shankar .. Petitioner

Vs.

1. The Assistant Commissioner of Income Tax
   Non Corp Circle – 1, Income Tax Main Building
   No.63, Race Course Road
   Coimbatore – 624 018.

2. The Commissioner of Income Tax (Appeals) I
   Income Tax Main Buildings
   No.63, Race Course Road
   Coimbatore.

3. The Principal Commissioner of Income Tax – I
   Income Tax Main Buildings
   No.63, Race Course Road
   Coimbatore.

4. The Chief Commissioner of Income Tax
   Income Tax Main Buildings
   No.63, Race Course Road
   Coimbatore.

5. The Branch Manager
   ICICI Bank, Harmony Complex 183
   Diwan Bahadur Road, R.S.Puram
   Coimbatore – 641 001.

6. The Branch Manager
   Karur Vysya Bank, No.577
   Oppanakara Street, Coimbatore.

7. The Branch Manager
IDBI Bank, No.72
May Flower Building Dr.Balasundaram Road
ATT Colony Gopalapuram, Coimbatore – 621 018.

8. Shri Krishna .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records of the first respondent in impugned notice dated 23.12.2021 vide Ref.No.ITBA/COM/F/17/2021-22/1038079034(1) and PAN No.ALTPS4963Q for the Assessment Year 2017-18 and quash the same.

For the Petitioner	:	Mr.A.S.K.Vasanth Kumar for Ms.Kanimozhi Mathi
For the Respondents	:	Dr.B.Ramaswamy Senior Standing Counsel for R1 to R4

ORDER

The petitioner has impugned the notice dated 23.12.2021, wherein, it has been stated that despite the order being received under Section 220(6) of the Income Tax Act, 1961, dated 30.08.2021, rejecting the request of the petitioner to stay the collection of tax for the Assessment Years 2017-18, 2012-13 and 2005-06, the petitioner has not paid the demand, as directed, for a sum of Rs.21,66,499/-.

2. The impugned communication exhorts the petitioner to remit a sum of Rs.21,69,577/-, being the arrears of tax for each of the Assessment Years, pursuant to the order dated 30.08.2021 passed under Section 220(6) of the Income Tax Act, 1961.

3. Challenging the impugned order, on account of pendency of the appeal before the Appellate Commissioner against the respective Assessment Orders passed for the Assessment Year 2017-18, it is submitted that the impugned communication is contrary to the decision of the Delhi High Court in the case of ***SOUL vs. Deputy Commissioner of Income Tax***[1].

4.1. The respondents in the counter have stated that the petitioner has filed an appeal before the Commissioner of Income Tax (Appeals), Coimbatore on 18.01.2020 against the Assessment Order dated 23.12.2019 passed under Section 143 (3) of the Income Tax Act, 1961. The stay petition filed before the Assessing

1 *323 ITR 305 (Delhi High Court)*

Officer on 19.02.2020 under Section 220(6) of the Income Tax Act, 1961 was rejected in light of the decision of the Supreme Court in the case of ***M/s.Karmvir Builders vs. Principal Commissioner of Income Tax (Central), Surat & Ors.***[2] wherein, it has been held that merely because the petitioner has filed an appeal against the Order of Assessment, it would not amount to grant of blanket stay.

4.2. It is further submitted that the decision of the Delhi High Court in the case of ***SOUL*** *(supra)* cannot be applied to the facts of this case, as the said case do not involve high pitched demand. It is submitted that the petitioner's case was subjected to scrutiny under CASS to verify abnormal increase in cash deposits during the period of Demonetization as compared to pre-demonetization for the Assessment Year 2017-18.

5.1. The facts on record seems to indicate that the petitioner has deposited devalued cash for a sum of Rs.1,07,70,500/-. The petitioner, having deposited such huge amount of cash, is thus,

2 *Appeal (C) Nos.16670 & 16671 of 2017; dated: 28.03.2019.*

prima facie, liable to pay tax and therefore, the petitioner cannot ask for further waiver from and above 20%, as has been ordered to be paid while rejecting the application under order dated 30.08.2021 under Section 220(6) of the Income Tax Act, 1961.

5.2. The writ petition is liable to be dismissed and accordingly, stands dismissed. There shall be no order as to costs. Consequently, W.M.P.Nos.24770 and 24772 of 2022 are closed.

06.12.2024

Index : Yes/No

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C.SARAVANAN,J.

(drm)

W.P.No.25713 of 2022

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