BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.4139 and 4140 of 2024
and
W.M.P.(MD)Nos.3995, 3997 & 3999 and 4051 to 4053 of 2024

Devendiran Srinivasan ... Petitioner in both the W.Ps.

Vs.

1.The Deputy Commissioner of Income Tax,
Circle - 1 (1), Trichy,
Income Tax Department,
Williams Road, Cantonment,
Trichy - 620 001.

2.The Principal Commissioner of Income Tax,
Madurai - 1,
Income Tax Department,
2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

3.The National Faceless Appeal Centre,
C-Block, 4th Floor,
S.P.M. Civic Centre,
New Delhi – 110 001. ... Respondents in both the W.Ps.

Prayer in W.P.(MD)No.4139 of 2024: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, to call for the records of the writ petitioner / assessee on the file of the first respondent to quash the impugned order dated 23.01.2024 in DIN and Letter No.ITBA/COM/F/17/2023-24/1060035582(1).

Prayer in W.P.(MD)No.4140 of 2024: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, to call for the records of the writ petitioner / assessee on the file of the first respondent to quash the impugned order dated 23.01.2024 in DIN and Letter No.ITBA/COM/F/17/2023-24/1060035968(1).

For Petitioner in both W.Ps. : Mr.A.S.Sriraman

For R1 and R2 in both W.Ps. : Mr.N.Dilipkumar
Senior Standing Counsel

COMMON ORDER

The petitioner has suffered adverse assessment order for the Assessment Year 2017-2018 on 28.05.2023. The petitioner has also filed an appeal before the Commissioner of Income Tax (Appeals), on 15.06.2023. However, the petitioner has neither filed an application under Section 220(6) of the Income Tax Act, 1961 before the Assessing Officer nor a stay petition before the third respondent along with the appeal filed on 15.06.2023. Under these circumstances, the first respondent has attached two bank accounts of the petitioner maintained with the Indian Bank, Tiruvermbur, Trichy and the State Bank of India, Thanjavur on 23.01.2024.

2. The petitioner has to either file an application for staying the operation of the order before the appellate Commissioner namely, the third respondent against the order dated 28.05.2023 or file suitable application under Section 220(6) of the Income Tax Act, 1961 before the first respondent. Therefore, the action of the first respondent seeking to attach the above two bank accounts of the petitioner cannot be faulted. As a matter of fact, the petitioner is required to deposit 20% of the amount in terms of Circular of the Central Board of Direct Taxes as per the decision of the Hon'ble Supreme Court in **Principal Commissioner of Income Tax and others vs. L.G. Electronics India Private Limited**, 2018 (18) SCC 447. The appellate authority can also grant complete waiver.

3. Considering the same, I am inclined to dispose of these Writ Petitions, by giving temporary reprieve to the petitioner by keeping the impugned attachment orders in abeyance for a period of 60 days from today subject to the petitioner filing suitable application either under Section 220(6) of the Income Tax Act, 1961 to the first respondent or in the alternative, a stay petition before the third respondent. On such application being filed by the petitioner, the first respondent or the third respondent, as the case may be, shall dispose the same strictly in accordance with the Circular issued by the Central Board of Direct Taxes in respect of pre-deposit to be made pending disposal of the appeal and taking note of the decision of the Hon'ble Supreme Court in **Principal Commissioner of Income Tax and others vs. L.G. Electronics India Private Limited** [cited supra].

4. The appeal filed by the petitioner before the third respondent on 15.06.2023 shall be disposed of as expeditiously as possible.

5. These Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No 16.04.2024
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To
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C.SARAVANAN, J.

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