BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.8982 of 2024
&
W.M.P.Nos.8171,8174 and 8169 of 2024

Vivekananda Educational Society,
Represented by its Secretary,
C.Rajan,
S/o.Chellam,
Agastheeswaram,
Kanyakumari District-629 701 ... Petitioner

Vs.

1.The Commissioner of Income Tax,
Office of the Commissioner of Income Tax (Exemption),
Aaykar Bhawan, Annexure III Floor,
No.121, M.G.Road, Nungambakkam,
Chennai-600 034

2.The Income Tax Officer,
Office of the Income Tax Officer, EXEMPNS
Ward, Rahmath Nagar, Tirunelveli-627 011 ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in DIN and Notice No ITBA/COM/F/17/2023-24/1062145247(1) dated 07.03.2024 and the Impugned Order in DIN and Notice No:

ITBA/COM/F/17/2023-24/1062148023(1) on the file of the Respondent No.2 and quash the same as illegal and consequently for a direction directing the Respondent No.1 to dispose of the appeal petition preferred by the Petitioners Educational Society dated 22.01.2020 within a period stipulated time.

For Petitioner : Mr.T.Aswin Raja Simman

For Respondents : Mr.J.Parekh Kumar
Senior Standing Counsel

O R D E R

Writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in DIN and Notice No ITBA/COM/F/17/2023-24/1062145247(1) dated 07.03.2024 and the Impugned Order in DIN and Notice No: ITBA/COM/F/17/2023-24/1062148023(1) on the file of the Respondent No.2 and quash the same as illegal and consequently for a direction directing the Respondent No.1 to dispose of the appeal petition preferred by the Petitioners Educational Society dated 22.01.2020 within a period stipulated time.

2. It is noticed that the petitioner has filed a appeal before the

Commissioner of Income Tax (Appeals) against assessment order dated 24.12.2019 for the assessment year 2017-18. The same is pending consideration before the Commissioner of Income Tax (Appeals). During the interregnum impugned notice dated 07.03.2024 has been issued to recover a sum of Rs.81,52,844/- from the petitioner being the disputed tax confirmed vide above said order.

3. It is noticed that the respondents have already recovered a sum of Rs.29,98,191/- during the pendency of the appeal before the CIT. This is more than 20% of the disputed tax which is required to be deposited in terms of Circular issued by the Central Board of Excise and Customs issued under Sec.119 (2) of the Income Tax Act, 1961.

4. Under these circumstances, Court is inclined to dispose of this Writ Petition at the time of admission, with the consent of the learned counsel for the respondents by directing the Commissioner of Income Tax (Appeals) to dispose of the appeal filed electronically in Form 35 on 22.01.2020. Pending disposal of the appeal of the petitioner all further recovery proceedings shall be stayed. It is expected that the Commissioner of Income Tax (Appeals) may endeavour to dispose the appeal of the

C.SARAVANAN, J.

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petitioner preferably within a period of nine months from date of receipt of a copy of this order.

5. Writ Petition stands disposed of with the above observation. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

15.04.2024.

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

Copy To:

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