WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.9249 and 9250 of 2024
and
W.M.P.(MD) Nos.8420, 8423, 8425, 8421, 8424 and 8426 of 2024

M/S.SD Infra
represented by its Partner,
No.25, IAS.Nagar,
Thiruverumbur,
Trichy 620 013.

... Petitioner in both W.Ps.,

/vs./

1.The Deputy Commissioner of Income Tax
Circle -1(1), Trichy,
Income Tax Department,
Williams Road,
Cantonment, Trichy 620001.

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

https://www.mhc.tn.gov.in/judis

WEB COPY

3.The National Faceless Appeal Centre,
C-Block, 4th Floor,
SPM. Civic Centre,
New Delhi 110 001.

... Respondents in both W.Ps.,

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the writ petitioner/Assessee on the file of the 1st respondent to quash the impugned order 15.03.2024 in DIN and Letter Nos.ITBA /COM /F/17/ 2023-24/1062675769(1) and ITBA /COM /F/17/ 2023-24/1062678463(1).

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

For R1 & R2 in both W.Ps., : Mr.N.Dilip Kumar Standing Counsel

COMMON ORDER

Heard Mr.A.S.Sriraman, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel for the respondents.

2.The petitioner has challenged the order dated 15.03.2024 seeking to attach the bank account of the petitioner pursuant to the adverse order passed by the Assessing Officer for the assessment year 2017-2018 on 26.05.2023.

https://www.mhc.tn.gov.in/judis

WEB COPY

3.Earlier, the assessment was completed on 27.12.2019. Thereafter, the assessment was re-opened and an assessment order came to be passed on 26.05.2023. The petitioner filed appeals before the third respondent on 14.06.2023.

4.It is the case of the petitioner that without issuance of notice, the impugned bank attachment order has been passed. On merits, the learned counsel for the petitioner would submit that the petitioner is engaged in manufacture and sale of ready mix concrete, in sale of petroleum products and is running a petrol bunk.

5.It is submitted that the amounts were withdrawn and deposited after demonetization and therefore, he would submit that the respondents have wrongly imposed taxes, vide the demand notice dated 26.05.2023.

6.The notice is defended by the learned Standing Counsel for the respondents 1 and 2 on the ground that the petitioner has neither filed an

https://www.mhc.tn.gov.in/judis

WEB COPY

application under Section 220(6) of the Income Tax Act before the Assessing Officer not to treat the petitioner as an assessee or filed an application to stay the operation of the assessment order dated 26.05.2023 before the Appellate Commissioner.

7.It is submitted that in the absence of either of the steps taken by the petitioner, the respondent was left with no other option except to proceed against the petitioner by attaching the petitioner's bank account. It is therefore submitted that the impugned order does not warrant any interference.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents 1 and 2.

9.There are guidelines issued by the Board under Section 119 of the Income Tax Act, which warrants deposit of Rs.20% of the disputed tax pending appeal. The Hon'ble Supreme Court has also dealt with the issue in ***Principal Commissioner of Income Tax and others vs. L.G. Electronics India Private Limited***, reported in ***2018 (18) SCC 447*** and held that in fit cases, the Authorities

https://www.mhc.tn.gov.in/judis

WEB COPY

can waive the amounts provided applications are made. In this case, admittedly, the petitioner has neither filed a petition under Section 220 (6) of the Income Tax Act before the Assessing Officer or filed a stay petition before the Appellate Authority. The petitioner may have a case on merits.

10.Considering the same, this Court is inclined to grant temporary reprieve to the petitioner by giving 30 days time from the date of receipt of a copy of this order. The respondents are directed to keep the impugned attachment order in abeyance subject to the petitioner's opting to file either the petition for stay before the Appellate Authority or for appropriate orders under Section 220(6) of the Income Tax Act before the Assessing Officer. If such an application is filed either before the Assessing Officer or before the Appellate Commissioner as the case may be, the same shall be disposed of within a period of four weeks thereafter. The Appellate Authority may endeavour to dispose of the appeal as expeditiously as possible.

https://www.mhc.tn.gov.in/judis

WEB COPY

11.With the above directions, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

15.04.2024

https://www.mhc.tn.gov.in/judis

WEB COPY

C.SARAVANAN, J.

mm

W.P.(MD) Nos.9249 and 9250 of 2024

15.04.2024

https://www.mhc.tn.gov.in/judis