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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17655 of 2024

The Ramco Cements Limited,
Represented by its Sr. General Manager Legal T.Mathivannan. ... Petitioner

Vs.

1.The Commissioner of Income Tax (Appeals),
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai – 625 002.

2.The Assessing Officer,
Corporation Circle-2,
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondent to dispose of the appal pending before the respondent in Appeal No.CIT(A), Madurai -1/10380/2019-20 for AY 2011-12 within a reasonable period.

For petitioner : Mr.P.J.Rishikesh

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

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ORDER

This Writ Petition is disposed of at the time of admission after recording the submissions of the learned Senior Standing Counsel for the respondents.

2. In this Writ Petition, the petitioner seeking for a Mandamus directing the first respondent to dispose of the petitioner’s appeal filed against the assessment order dated 14.12.2019 for the assessment year 2011-12 against which the petitioner has filed an appeal before the first respondent on 03.01.2020.

3. It is submitted that the petitioner has also deposited 20% of the disputed tax. However, the first respondent is denying to adjust the amount against the dues payable on the petitioner by the refund order passed by the first respondent. Thus, the petitioner is being put to genuine hardship.

4. It is specifically submitted that the Government as also Central Board of Direct Taxes also issued a Circular dated 07.03.2024 bearing reference in F.No. 279/Misc./M-102/2021-ITJ, Central Board of Direct Taxes, whereas it has been clarified as under:

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In supersession of the above-referred letter dated 29.12.2021 and to set a framework for priority/out of turn disposal of pending appeals at the level of CsIT(A/AU) and Addl./Jt.CIT(Appeals), it is decided that requests for such disposal of appeals, covering genuine and exceptional circumstances, raised at the instance of the appellant or referred to by the Assessing Officer/Range Head, may be considered by the Pr.CCsIT/CCsIT/DGsIT on the basis of recommendations of jurisdictional Pr.CIT/Pr.CIT(Central)/CIT(IT), in the following situations —

i. Cases having demand above Rs. 1Cr, or

ii. Cases where a VIP/PMO reference is received for expeditious disposal, or

iii. Cases where directions to this effect have been issued by the Courts, or

iv. Cases where request is made by senior citizens and/or super senior citizens, or

v. Any other case of genuine hardship.

2. In respect of appeals within the jurisdiction of faceless CsIT(AU), such requests shall be referred to Pr.CCIT(NFAC) for onward communication to respective CsIT(AU).

3. This issues with the approval of Chairman, CBDT.

5. Having considered the submissions made by the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents, the Court is of the view that this is a fit case for a positive direction to direct the first respondent to dispose of the petitioner's appeal dated 03.01.2020 against the assessment year 2011-12 as expeditiously as possible preferably within a period of 12 months from today, in the light of the above Circular dated 07.03.2024 bearing reference in F.No.279/Misc./M-102/2021-ITJ, Central Board of Direct Taxes.

6. Since the jurisdictional Assessing Officer appears to have appropriated

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the amounts due and payable to the petitioner on the refund against the demand confirmed *vide* order dated 14.12.2019, the Assessing Officer, Corporation Circle-2, Madurai is *suo motu* impleaded as the second respondent.

7. There shall be a direction to the second respondent/Assessing Officer to not to deduct any further amounts and appropriate the same from the refunds due to payable to the petitioner against demand under Assessment Order dated 14.12.2019 for the assessment year 2011-12, pending disposal of the appeal of the petitioner before the first respondent.

7. The second respondent shall ensure that no further adjustments are made from and out of the refunds due to the petitioner towards the tax liability by the second respondent confirmed *vide* assessment order dated 14.12.2019 for the assessment year 2011-12, pending disposal of the petitioner's appeal dated 03.01.2020 for the assessment year 2011-12.

This Writ Petition is disposed of with above directions. No costs.

30.07.2024

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

apd

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