IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.985 of 2025
and
W.M.P.Nos. 1220 & 1221 of 2025

Golden Vats Private Ltd.,
rep. by its Director, S.Ramanathan. ...Petitioner

Vs.

1. The Assistant Commissioner of Income Tax,
(Central Circle -3(2) Chennai,
3rd Floor, Investigation Building,
No.46 (Old No.108)
Mahatma Gandhi Road,
Chennai – 600 034.

2. The Commissioner of Income Tax (Appeals)
O/o. Commissioner of Income Tax (Appeals)
CIT (Appeals) 121, Mahatma Gandhi Road,
Nungambakkam, Chennai -600 034.

3. Karur Vysya Bank Ltd.,
Whites Road Branch,
rep. by its Branch Manager,
P.B.No.5565, 37, Whites Road,
Chennai - 600 014.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the first respondent pertaining to DIN & Letter No.ITBA/COM/F/17/2024-25/1071385282(1) dated 19.12.2024, and DIN & Letter No.ITBA/COM/F/17/2024-25/1071842941(1) dated 03.01.2025 and to quash the same as arbitrary.

For Petitioner	:	Ms. Parthika Devi for Mr.Richardson Wilson
For Respondents 1 and 2	:	Mr.A.N.R.Jayaprathap Junior Standing Counsel

Order

Heard Ms. Parthika Devi learned counsel appearing for the petitioner and Mr.A.N.R.Jayaprathap, the learned Junior Standing Counsel for respondents 1 and 2.

2. The challenge in this Writ Petition is to the orders passed by the first respondent dated 19.12.2024 and 03.01.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that challenging the assessment order passed by the first respondent dated 30.09.2021, the petitioner preferred an Appeal, pending disposal of the Appeal, the petitioner also filed an Application for Stay, however, the first respondent vide letter dated 13.12.2024, insisted the petitioner to pay 20% of disputed tax, as per the modified instruction dated 31.03.1996 issued by the CBDT, failing which, recovery proceedings would be initiated; that though the petitioner requested the first respondent to adjust the payment of 20% from and out of the refund payable by the Department, the first respondent vide the impugned order dated rejected the Stay Petition, which necessitated the petitioner to approach this Court.

3.1 The learned counsel for the petitioner also submitted that the petitioner has already deposited 15% of the disputed tax and therefore, prays that the onerous condition imposed by the first respondent requiring the petitioner to pay 20% of the disputed tax may be reduced to 15%.

4. The learned Junior Standing Counsel for the respondents 1 and 2 fairly submitted that since the petitioner has already deposited 15% of the disputed tax, in the event, this Court is inclined to modify the pre-conditional deposit of 20% into 15%, the same may be confirmed and appropriate orders in that regard may be passed.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. There is no dispute on the aspect that challenging the assessment order passed by the first respondent dated 30.09.2021, the petitioner has filed an Appeal before the respondent/CIT(Appeals) and the petitioner also filed a Petition for stay. However, in the interregnum, since the petitioner has been insisted to pay 20% of the disputed tax, failing which, the petitioner would be faced with recovery proceedings, the petitioner requested the first respondent to adjust the payment of 20% from and out of the refund payable to the petitioner, however, the first respondent without considering such request, rejected the Petition for Stay. However, considering the fact that the petitioner has already deposited 15% of the disputed tax and finds the conditional order requiring them to pay 20% as onerous, this Court is inclined to modify the condition imposed on the petitioner from 20% into 15%.

6.1 Accordingly, the impugned order passed by the first respondent dated 19.12.2024, directing the petitioner to pay 20% of the disputed tax stands modified to 15%, which the petitioner has already deposited. Therefore, till the Appeal is disposed of by the second respondent/Appellate Authority, the first respondent is restrained from taking any coercive action against the petitioner. So far as the order passed by the first respondent with regard to the freezure of the bank accounts of the petitioner is concerned, the same stands annulled, and the first respondent is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the bank account forthwith.

7. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.02.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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