IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16265 of 2025
and
W.M.P.No.18395 of 2025

Mr. N Periyasamy
S/o. Nadesan No.88, Avvaiyar Street
Thuraimangalam, Thuraimangalam Town
Perambalur Taluk and District- 621 220. .Petitioner

Vs.

1 The Commissioner of Income Tax
Income Tax Department,
Trichy Main Building Wlliams Road
Cantonment Trichy, Tiruchirapalli- 620 015.

2 The Assessing Officer
Ward- 1 2nd Floor Perambalur Income tax Office
No.71, Deena Dayalan Complex 1st Floor
Venkatesapuram, Perambalur- 621 212. ...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 2nd respondent in his proceedings being impugned demand dated 11.11.2024 bearing DIN and Letter No.ITBA/COM/F/17/2024-25/1070265004(1) and to quash the same.

For Petitioner : Mr.G.ILamurugu

For Respondents : Dr.B.Ramaswamy,
Senior Standing Counsel

Order

The challenge in this Writ Petition is to the order passed by the 2nd respondent in his proceedings dated 11.11.2024 and to quash the same.

2. Mr.G.ILamurugu, learned counsel appearing for the petitioner would submit that aggrieved by the assessment order passed by the second respondent dated 26.12.2019, the petitioner preferred an Appeal before the first respondent, during the pendency of such Appeal, the petitioner also filed an Application for Stay, but the same was dismissed, however, no order in regard to the same was served on the petitioner, therefore, seeking copy of such order of dismissal of the Stay Application the petitioner made a representation dated 03.06.2025, however, no order has been passed as on date in respect of such representation, hence, the petitioner is not in a position to challenge the order of dismissal of the Stay Petition, but, in the interregnum, the second respondent has issued a impugned demand notice dated 11.11.2024 which is highly arbitrary and hence, the present Writ Petition is filed seeking for aforesaid relief.

3. Dr.B.Ramaswamy, learned Senior Standing Counsel for respondents would submit that though it is the contention of the petitioner that the Stay Application filed by him was dismissed and that he was not served with copy of the said order, he fairly submitted that since the Appeal filed by the petitioner as against the assessment order is still pending for consideration before the first respondent, appropriate direction may be issued for disposal of the said Appeal in a time bound manner and till such, the recovery proceedings may be directed to be kept in abeyance.

4. Heard the learned counsel appearing for the petitioner and the learned Senior Standing Counsel for respondents and perused the materials placed on record.

5. The petitioner has filed an Appeal against the assessment order passed by the second respondent dated 26.12.2019 and the said Appeal is still pending for consideration before the first respondent, Commissioner of Income Tax. During the pendency of such Appeal, the petitioner has filed an Application for Stay. According to the petitioner, the said Stay Application came to be dismissed, but, the petitioner has not been served with a copy of the same, despite a representation dated 03.06.2025 is made by the petitioner in that regard. Since the petitioner is handicapped with the copy of the order of dismissal of the Stay Application, the petitioner is not in a position to challenge the same, however, in the interregnum, the second respondent, without mindful of the fact that as against the assessment order passed by him, the petitioner has filed Appeal before the first respondent and the same is pending, adding fuel to the fire, proceeded in furtherance of the assessment order and raised the present demand dated 11.11.2024 and impugning the same, the present Writ Petition is filed.

6. However, this Court taking into consideration of the fair submission made by the learned Senior Standing Counsel for respondents, is of the view that it would be appropriate to dispose of the Writ Petition with the following orders/directions:-

i) The first respondent, Appellate Authority, viz, Commissioner of Income Tax (Appeals) Tiruchirapalli, is directed to dispose of the Appeal filed by the petitioner dated 28.01.2020 within a period of three months from the date of receipt of a copy of this order. However, it is needless to state that, till the disposal of the Appeal, the respondent-Department is directed to defer the recovery proceedings.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

20.06.2025

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Index : yes/no
Neutral Citation : yes/no
To
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Krishnan Ramasamy,J.,

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