BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.6311 of 2025
and WMP (MD) Nos.4654 & 4657 of 2025

Haji I.Asarab Ali : Petitioner

Vs.

1. The Income Tax Officer,
Exemptions Ward Madurai,
Income Tax Department, Madurai.

2. The National Faceless Appeal,
Centre, C-Block, 4th Floor,
S.P.M Civic Centre, New Delhi 110 001.

3. The Assistant Commissioner Of Income Tax,
Office of Assistant Commissioner,
Income Tax Department, Madurai.

4. The Income Tax Officer,
Ward 1 Ramnad,
Income Tax Department,
Ramanathapuram.

5. The Tamil Nadu Wakf Board,
Rep by its Chief Executive Officer,
No.1, Jaffar Syrang Street, Vallal
Seethakathi Nagar, Chennai 1. : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records of the 1st respondent dated 21.02.2025 bearing DIN and Letter No. ITBA/COM/F/17/2024-25/1073556855 and quash the same and consequently direct the 2nd respondent/appellate authority to dispose of the pending appeal dated 17.07.2024 bearing Acknowledgment No. 762697390170724 relating to AY 2018-19 within a time frame.

For Petitioner : Mr.I.Kowser Nissar

For Respondents : Mr.N.Dilip Kumar for R1 to R4
Mr.K.K.Senthil for R5

ORDER

This writ petition has been filed challenging the impugned order dated 21.02.2025, passed by the first respondent, directing the petitioner to pay 20% of the disputed demand.

2. The learned counsel for the petitioner submits that, against the assessment order dated 08.03.2024, the petitioner filed an appeal through e-filing on 17.07.2024 before the Joint Commissioner (Appeals) and the same is pending before the second respondent. The grievance of the petitioner is that, pending the appeal, the first respondent passed another order dated 21.02.2025, directing the petitioner to pay 20% of the disputed demand, failing which the stay petitions pending before the first respondent could not be considered.

3. The learned Counsel for the petitioner by relying on the order of this Court dated 26.04.2024 passed in W.P(MD) No.10995 of 2024, further submits that, as per the office memorandum dated 31.07.2016 (Instruction No.1914), it is not mandatory for the assessee to remit 20% of the disputed tax demand. Therefore, the impugned order passed by the first respondent is liable to be set aside.

4. The learned counsel appearing on behalf of the respondents 1 to 4 submits that since the petitioner has already filed an appeal, which is pending before the second respondent, a direction may be issued to the second respondent to dispose of the appeal within a specified time frame.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Considering the submissions and the relevant provisions, this Court finds that the office memorandum dated 31.07.2016 (Instruction No. 1914) does not make it mandatory for the assessee to

remit 20% of the disputed tax demand. The memorandum only stipulates that the remittance of 20% is a condition for considering the stay petitions, but it does not impose a mandatory obligation to make such a payment.

7. For the reasons set out above, there shall be a direction to the second respondent to dispose of the pending appeal, which was filed by the petitioner through e-filing on 17.07.2024 before the Joint Commissioner (Appeals), within a period of three months from the date of receipt of a copy of this order. Till such time, the *status quo* shall be maintained between the parties.

8. With the above directions, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.03.2025

Index : Yes / No
Internet : Yes / No

PKN

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VIVEK KUMAR SINGH, J.

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W.P.(MD) No.6311 of 2025

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