



W.P.(MD)No.6945 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.6945 of 2025

and

W.M.P.(MD)Nos.5227, 5228 and 5229 of 2025

M/s. Rasheed Ali and Sons,
Represented by its Partner, R. Ansar Ali,
15, Main Road, Keeranur,
Pudukkottai - 622 502.

... Petitioner

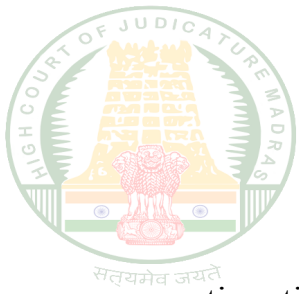
-VS-

1.The Income Tax Officer,
Ward-1, Pudukkottai,
8663/2, Annavasal Road,
Chola Real Estate, Thitukkokaranam,
Pudukkottai.

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

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 14.12.2024 passed in ITBA/RCV/F/17/2024-25/1071223061(1) by the first respondent and quash the same and further direct the first respondent not to take any coercive recovery



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action till the disposal of the appeal dated 31.05.2024 filed by the petitioner against the assessment order dated 28.12.2023 passed in respect of the Assessment Year 2019-2020.

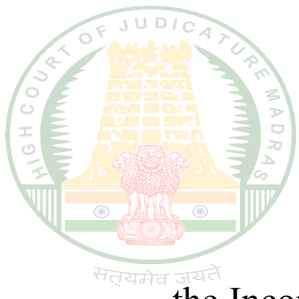
For Petitioner : Mr.Hari Radhakrishnan

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

ORDER

This Writ Petition has been filed seeking to quash the impugned order passed by the first respondent, dated 14.12.2024 and a consequential direction to the first respondent not to take any coercive recovery action till the disposal of the appeal dated 31.05.2024, filed by the petitioner against the assessment order dated 28.12.2023 passed in respect of the Assessment Year 2019-2020.

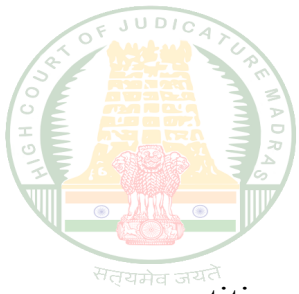
2. The learned counsel for the petitioner submits that the petitioner is engaged in the retail trading of petrol and diesel and has been appointed as a non-exclusive dealer of M/s.Indian Oil Corporation Limited pursuant to a Memorandum of Agreement dated 26.06.2007. In this context, on 16.05.2024, the petitioner received a notice demanding tax dues for the Assessment Years 2014-2015 and 2019-2020, amounting to Rs.31,230/- under Section 143(1)(a) of



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the Income Tax Act, 1961, and Rs.8,31,30,150/- under Section 147 of the Income Tax Act, 1961. At that time, the petitioner became aware of the assessment order dated 28.12.2023, passed in respect of the Assessment Year 2019-2020. Subsequently, the petitioner received an order dated 15.05.2024 under Section 271-AAC(1) of the Income Tax Act, 1961, imposing a penalty of Rs.39,51,030/-. Challenging the assessment order and penalty, the petitioner filed appeals before the Commissioner of Income Tax (Appeals) on 31.05.2024. The petitioner requested the first respondent, through a letter dated 05.07.2024, to keep all recovery proceedings in abeyance until the disposal of the appeal. However, by letter dated 16.10.2024, the first respondent directed the petitioner to pay 20% of the disputed demand, in terms of the Office Memorandum dated 31.07.2017 and CBDT Instruction No.1914, dated 21.03.1996.

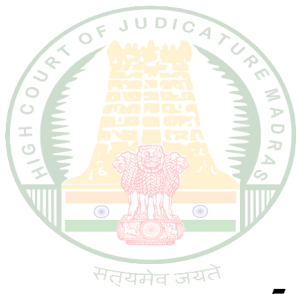
3. The learned counsel for the petitioner further submits that due to financial crisis, the petitioner informed the first respondent through a letter dated 21.10.2024 that they were unable to pay the 20% of the demand, but had deposited Rs.1,25,000/- to demonstrate their *bona fides*. Despite the same, the first respondent insisted on the payment of Rs.1,66,26,030/- and directed the



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petitioner to submit proof of financial hardship by 21.11.2024. In compliance, the petitioner submitted a letter on 21.11.2024, attaching returns of income for the Assessment Years 2021-2022 to 2024-2025 along with certain documents. However, the first respondent did not provide any findings and reiterated the demand for payment. On 09.12.2024, the first respondent further requested additional documents. Subsequently, the first respondent passed the impugned order rejecting the request to stay the recovery proceedings, demanding payment, and attaching the petitioner's bank accounts. Aggrieved over the same, the petitioner has filed the present Writ Petition.

4. Mr.N.Dilip Kumar, learned Senior Standing Counsel appearing for the respondents submits that mere filing of an appeal before the Commissioner of Income Tax (Appeals) does not, by itself, grant the assessee the right to stay the collection of the demand. The assessee must comply with the prescribed conditions under the Income Tax Act and relevant CBDT instructions, including making the requisite pre-deposit of 20% of the disputed demand as a precondition for granting a stay. The filing of an appeal does not automatically suspend the recovery process unless such a stay is granted by the appropriate authorities.

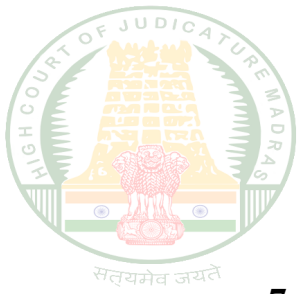


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5. The learned Senior Standing Counsel appearing for the respondents further submits that the assessee has failed to comply with the clear requirement of paying 20% of the disputed demand as mandated under Instruction No.1914 issued by the CBDT on 21.03.1996 and Office Memorandum F.No.404/72/93-ITCC dated 31.07.2017. These instructions are binding and specifically require the payment of 20% of the disputed demand before the stay on recovery can be granted. The failure to make this payment within the stipulated time is in violation to these instructions and prevents the Department from granting the stay.

6. The learned Senior Standing Counsel appearing for the respondents further submits that the assessee was given adequate opportunities to prove its financial hardship with appropriate documentary evidence. However, the documentary evidence submitted by the assessee has not demonstrated sufficient grounds to justify the waiver or reduction of the 20% pre-deposit requirement. As per the directions issued by the CBDT, such evidence must clearly establish the assessee's inability to pay the disputed demand. The failure to provide adequate proof of financial hardship has led to the rejection of the stay petition.



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7. The learned Senior Standing Counsel appearing for the respondents also submits that if the assessee fails to pay the 20% of the disputed demand as per the CBDT's instructions, coercive measures for the recovery of the demand will be initiated. These measures may include attachment of bank accounts, property, or other assets of the assessee, as provided under the provisions of the Income Tax Act. The Department has no other option, but to take such measures, if the assessee does not comply with the directions issued by the Department and therefore, the learned Senior Standing Counsel prayed for dismissal of the Writ Petition.

8. Heard both sides.

9. After considering the submissions of both parties, this Court finds that the Department has followed the prescribed procedure in accordance with the provisions of the Income Tax Act, 1961 and the relevant CBDT instructions. The assessee has failed to comply with the mandatory requirement of paying 20% of the disputed demand, as stipulated under CBDT Instruction No.1914, dated 21.03.1996 and the Office Memorandum dated 31.07.2017. Furthermore, the



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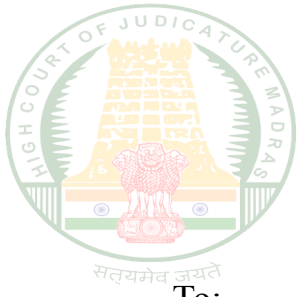
documentary evidence produced by the assessee does not substantiate the claim of financial hardship to the extent required to justify non-payment of the disputed demand.

10. In view of the above, this Court is of the opinion that the Department has acted within its authority and the refusal to grant a stay on recovery proceedings is justified. The mere filing of an appeal before the Commissioner of Income Tax (Appeals) does not automatically entitle the assessee to a stay of the collection of the demand without fulfilling the pre-conditions as prescribed.

11. Accordingly, the Writ Petition is dismissed. The assessee is directed to comply with the requirement of paying 20% of the disputed demand for the Assessment Year 2019-2020, in accordance with the relevant CBDT instructions and Office Memorandums and failure to comply with the directions will result in the initiation of coercive recovery measures as per the law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
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VIVEK KUMAR SINGH, J.

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