BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.29300 of 2024
and
W.M.P.(MD)No.24742 of 2024

M.D.Ganesan ...Petitioner

Vs

1.The Principal Commissioner of Income Tax,
Income Tax Department,
Madurai.

2.Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre,
Delhi.

3.Tax Recovery Officer,
Income Tax Department,
Ward 1, Ramanathapuram,
No.176, Subthagiri Complex,
II Floor, Vandikkara Street,
Ramanathapuram. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, forbearing the respondents 2 and 3 from in any manner recovering any amounts pursuant to the assessment order dated 12.03.2024 made in respect of the petitioner's PAN AODPG8603A besides all other consequential recovery proceedings initiated under Section 274 read with Section 271AAC(1), 270A and 272 A(1)(d) Income Tax Act, 1961 which has culminated into orders on 19.09.2024, 19.09.2024 and 04.09.2024 respectively pending disposal of the petitioner's revision petition filed on 15.05.2024 to the first respondent.

For Petitioner : Mr.T.S.Vijaya Raghavan

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

Heard Mr.T.S.Vijaya Raghavan, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel for the respondents.

2. The prayer sought for in the Writ Petition is for a Mandamus forbearing the respondent from recovering of any amounts pursuant to the order of assessment dated 12.03.2024 pending the proceedings and other consequential recovery proceedings pending disposal of the revision petition dated 15.05.2024.

3. After hearing the learned counsels on either side on 05.12.2024, this Court has formulated two issues to be answered in a larger perspective.

4. Today, when the matter was taken up for hearing, the learned counsel for the petitioner had relied upon the judgment of the full bench of the Karnataka High Court which had held that even though the power of stay had not been granted to the revisional authority, the same could be redeemed as incidental power as held by this Court in the judgment in the case of ***Paulsons Litho Works Vs Income Tax Officer and others reported in (1994) 208 ITR 676***.

5. The learned Standing Counsel appearing on behalf of the respondents on the other hand relied upon the judgment of the Allahabad High Court in the case of ***Tin Mfg.Co.of India Vs Commissioner of Income Tax reported in [1996] 88 Taxman 34 (Allahabad) dated 08.04.1996*** and contended that the High Court of Allahabad had held that the order of Commissioner rejecting the stay application as being without jurisdiction was correct.

6. Considering the fact that a revision petition has been filed by the petitioner and the time line for disposal of the said revision petition is 31.03.2026, this Court is of the view that, leaving it open to decide the issue that was framed by this Court in its order dated 05.12.2024, in an appropriate case, it would be reasonable to direct the first respondent to dispose of the revision petition filed by the petitioner, within a time frame, as the same would give a quietus to the issue at present.

7. In such view of the matter, the first respondent is directed to dispose of the revision petition filed by the petitioner dated 12.05.2024 on or before 31.05.2025. Till such time, no coercive steps shall be taken against the petitioner insofar as the order impugned before the revisional authorities.

8. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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K.KUMARESH BABU, J.

Nsr

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