

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.34702 of 2015
and
M.P.Nos.1,2 and 3 of 2015

Satish Kumar Latha

... Petitioner

Vs

1. The Assistant Commissioner of Income Tax,
Non-Corporate Circle -2,
Coimbatore.
 2. The Chief Commissioner of Income Tax,
63, Race Course Road,
Coimbatore - 641 018.
 3. The Commissioner of Income Tax (Appeals) -2,
Coimbatore.
- ... Respondents

Writ Petitions filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records on the file of the First Respondent in PAN: No.ACDPL5005H and quash the impugned order in F.No.ACDPL5005H/NCC-2/CBE-2015-16 dated 04.08.2015 passed by the First Respondent rejecting the stay petition and direct the First Respondent to grant stay of demand relating to the Assessment Year 2011-12 and 2012-2013, pending disposal of the waiver petition for the AY 2011-12 before the second respondent and pending disposal of the appeal before the Third Respondent for the AY 2012-13.

For petitioner : Mr.R.Sivaraman

For respondent : Mr.T.Pramodkumar Chopda,
Additional Government Pleader

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. According to the learned counsel appearing for the petitioner, the entire tax amount has been paid in respect of the Assessment Year 2011-12 and only the interest portion amounting to Rs.47,97,246/- was pending and the petitioner had preferred a petition before the second respondent for waiver of the interest portion in respect of the said Assessment Year and the same is pending. Insofar as the assessment order in respect of Assessment Year 2012-13, an appeal had been filed before the third respondent herein on 2.12.2014 and the same is pending. Pending disposal of the said Waiver Petition and the appeal, the petitioner filed an Application before the first respondent seeking for stay of the demand relating to outstanding tax amount in respect of the respective Assessment Years 2008-09 to 2012-13. However, without affording an opportunity of hearing to the petitioner, the first respondent passed the impugned order F.No.ACDPL5005H/NCC-2/CBE-2015-16 dated 04.08.2015 rejecting the stay petition. According to the petitioner, they have now paid the arrears of tax for the Assessment Years 2008-09, 2009-10, and 2010-11. Hence, the petitioner seeks for grant of stay in respect of the assessment order relating to Assessment Year 2012-13 only.

3. In view of the above submissions, the petitioner is directed to pay 25% of the disputed tax amount relating to the assessment order for the Assessment Year 2012-13 within a period of two weeks from the date of receipt of a copy of this order. On such payment, there shall be an order of interim stay in respect of the Assessment Year 2012-13, ***pending disposal of the Appeal.** Relating to interest due in respect of the order relating to the Assessment Year 2011-12, it is admitted that Waiver Petition is pending before the second respondent. It is open to the second respondent to pass orders on the Waiver Petition on merits and in accordance with law. Till the disposal of the Waiver Petition, there shall not be any recovery.

4. With the above observation, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar
Dated : 18.11.2015

***Corrected as per the Order of this Court
dated 10.12.2015 and made in WP.34702/15**

Sd/-Assistant Registrar(CCC)

Dated : 11.12.2015

/true copy/

Sub Asst. Registrar

asvm

To

1. The Assistant Commissioner
of Income Tax,
Non-Corporate Circle -2,
Coimbatore.
2. The Chief Commissioner
of Income Tax,
63, Race Course Road,
Coimbatore - 641 018.
3. The Commissioner of
Income Tax (Appeals) -2,
Coimbatore.

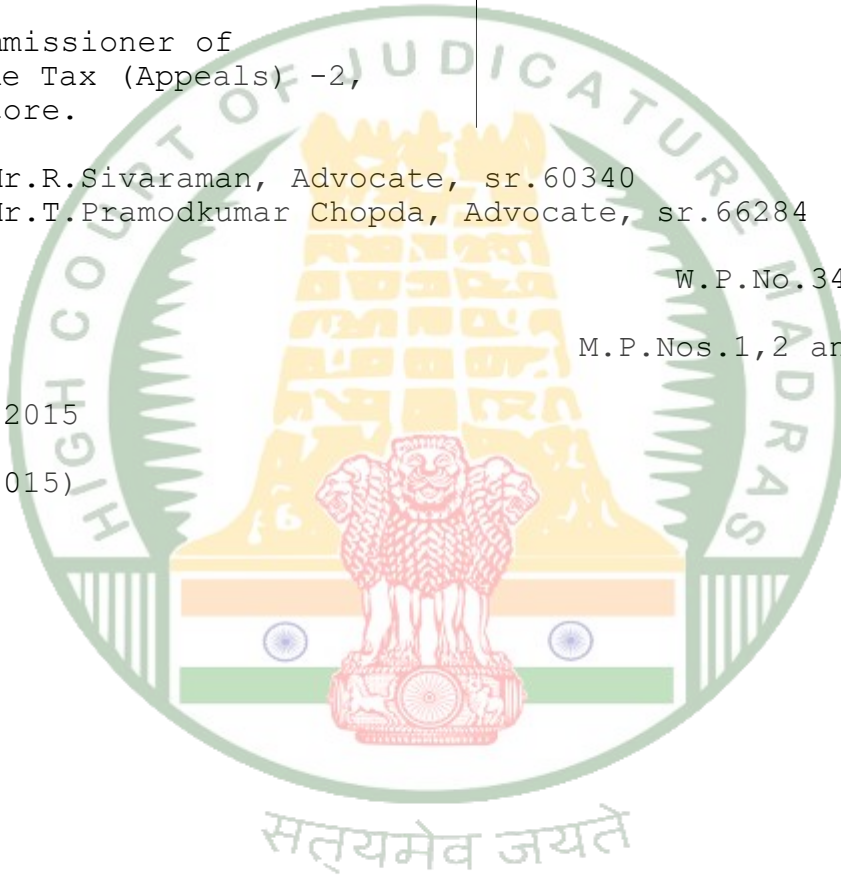
To be Substituted to the
Order already despatched
on 09.12.2015.

+1 cc to Mr.R.Sivaraman, Advocate, sr.60340
+1 cc to Mr.T.Pramodkumar Chopda, Advocate, sr.66284

W.P.No.34702 of 2015
and
M.P.Nos.1,2 and 3 of 2015

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kra 19/11/2015

CA(11.12.2015)



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