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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2022

CORAM:

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.34878, 34881 & 34883 of 2022

and

W.M.P.Nos.34295, 34296, 34297, 34298, 34299 & 34301 of 2022

M/s.Metal Impex

Represented by its Partner

Mr.Kamlesh Jain

A-Block, 7th Floor, Prince Apartments, No.59

Ormes Road Kilpauk,

Chennai-600 010.

... Petitioners in all WPs

Versus

1. Assistant Commissioner of Income Tax
Central Circle 1 (1) Chennai
Room No.320, 3rd Floor, Investigation Building
No.46 (Old No.108), MG Road
Nungambakkam, Chennai-600 034.

2. Commissioner of Income Tax (Appeals) - 18
No.46 (Old No.108)
MG Road, Nungambakkam,
Chennai-600 034.

... Respondents in all WPs

Writ Petition No.34878 of 2022 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in PAN : AAMFM4856G and



quash the impugned order in ITBA/COM/F/17/2022-23/1047944291(1) dated 12.12.2022 for the assessment year 2014-15 as illegal, arbitrary, against the principles of natural justice and devoid of merit and consequentially, direct the 1st respondent to grant stay of recovery of demand for the assessment year 2014-15 pending disposal of the appeal preferred by the petitioner before the 2nd respondent.

Writ Petition No.34881 of 2022 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in PAN : AAMFM4856G and quash the impugned order in ITBA/COM/F/17/2022-23/1047945472(1) dated 12.12.2022 for the assessment year 2016-17 as illegal, arbitrary, against the principles of natural justice and devoid of merit and consequentially, direct the 1st respondent to grant stay of recovery of demand for the assessment year 2016-17 pending disposal of the appeal preferred by the petitioner before the 2nd respondent.

Writ Petition No.34883 of 2022 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in PAN : AAMFM4856G and quash the impugned order in ITBA/COM/F/17/2022-23/1047944124(1) dated 12.12.2022 for the assessment year 2020-21 as illegal, arbitrary, against the principles of natural justice and devoid of merit and consequentially, direct the 1st respondent to grant stay of recovery of demand for the assessment year 2020-21 pending disposal of the appeal preferred by the petitioner before the



2nd respondent.

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For Petitioner : Ms.A.Niveditha
For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel for Income Tax
assisted by
Ms.Premalatha
Junior Standing Counsel for Income Tax

COMMON ORDER

These writ petitions have been filed to quash the orders dated 12.12.2022 pertaining to Assessment Years 2014-2015, 2016-2017 and 2020-2021 respectively, passed by the first respondent and to direct the first respondent to grant stay of recovery of demand for Assessment Years 2014-2015, 2016-2017 and 2020-2021 respectively, pending disposal of the appeals preferred by the petitioner before the second respondent.

2. Mr.A.P.Srinivas, learned Senior Standing Counsel for Income Tax assisted by Ms.Premalatha, learned Junior Standing Counsel for Income Tax takes notice for respondents.

3. A short question that arises for consideration in all these writ petitions is as to whether the impugned orders of assessment passed under Section 220(6) of the Income-tax Act, 1961 (43 of 1961) [hereinafter "IT Act"]



for the sake of brevity] during pendency of appeals, stand vitiated for passing non-speaking orders.

4. It is submitted by the learned counsel for the petitioner that it has been consistently held by this Court that an application under Section 220(6) of IT Act ought to be decided by applying 'Trinity' principles set out in the case of ***Kannammal vs. Income Tax Officer, Ward 1(1), Tirupur*** reported in ***(2019) 413 ITR 390(Mad)*** and in the case of ***Queen Agencies Vs. The Assistant Commissioner of Income Tax, (Circle-1)***.

5. The learned Senior Standing Counsel for the respondents submits that the matter may be remanded back to the Assessing Officer for fresh consideration of stay applications under Section 220(6) of IT Act.

6. In view of the above, the impugned orders dated 12.12.2022 in respect of Assessment Years 2014-2015, 2016-2017 and 2020-2021 respectively are set aside and first respondent is directed to pass fresh orders in the stay applications filed, keeping in mind the 'Trinity' principles laid down by this Court in the case of ***Queen Agencies*** and in the case of ***Kannammal***.



The stay applications shall be disposed of within a period of six weeks from the date of receipt of a copy of this order. Until the stay applications are disposed of, no further proceedings shall be taken against the petitioner.

7. With the above directions, all these writ petitions stand disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.12.2022

Index : Yes/No
Speaking Order/Non Speaking Order
mk/ms

To

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MOHAMMED SHAFFIQ, J.

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