

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

WP(C).No. 174 of 2015 (V)

PETITIONER:

**THE MOWANCHERY CO-OPERATIVE RURAL BANK LTD.,
AABAT4821C, P.O.MOWANCHERY, KANNUR - KANNUR -670 613,
REPRESENTED BY ITS SECRETARY, VINAYAKUMAR M.N.**

**BY ADVS.DR.K.P.PRADEEP
SRI.I.V.PRAMOD**

RESPONDENT(S):

- 1. THE CENTRAL BOARD OF DIRECT TAXES,
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI-110 001, REPRESENTED BY ITS CHAIRMAN.**
- 2. INCOME TAX OFFICER,
WARD 1, KANNUR, AAYAKKAR BHAVAN,
KANNOOTHUMCHAL, CHOVVA, KANNUR-670 006.**
- 3. COMMISSIONER OF INCOME TAX (APPEALS),
KOZHIKODE, AAYAKAR BHAVAN,
REVENUE BUILDING, MANANCHIRA, KOZHIKODE.**
- 4. INCOME TAX APPELLATE TRIBUNAL,
KOCHI BENCH, KENDRIYA BHAVAN, KAKKANAD,
ERNAKULAM, REPRESENTED BY ITS REGISTRAR.**

BY SRI.JOSE JOSEPH, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 :** TRUE COPY OF THE CERTIFICATE NO.7000/2012/0 DATED 24.9.2012 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KANNUR TO THE PETITIONER.
- EXHIBIT P2 :** TRUE COPY OF THE ASSESSMENT ORDER NO.AABAT4821 C DATED 21.3.2013 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE ASSESSMENT YEAR 2010-11.
- EXHIBIT P3 :** TRUE COPY OF THE ORDER IN APPEAL IN ITA-47/KNR/CIT/2013-14 DATED 30.10.2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER FOR THE ASSESSMENT YEAR 2010-11.
- EXHIBIT P4 :** TRUE COPY OF THE APPEAL DATED 15.12.2014 FILED AGAINST EXT.P3 ORDER IN APPEAL BEFORE THE INCOME TAX APPELLATE TRIBUNAL, KOCHI BENCH FOR THE ASSESSMENT YEAR 2010-11.
- EXHIBIT P5 :** TRUE COPY OF THE STAY APPLICATION DATED 15.12.2013 FILED ALONG WITH EXT.P4 APPEAL BEFORE THE INCOME TAX APPELLATE TRIBUNAL, KOCHI BENCH FOR THE ASSESSMENT YEAR 2010-11.
- EXHIBIT P6 :** TRUE COPY OF THE DEMAND NOTICE NO.AABAT4821C/2010-11/W1/KNR DATED.21.3.2013 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE YEAR 2010-11.
- EXHIBIT P7 :** TRUE COPY OF THE STATEMENT OF REMITTANCE OF INCOME TAX FOR THE YEAR 2010-11.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.174 OF 2015 (V)

Dated this the 6th day of January, 2015

J U D G M E N T

Against Ext.P2 assessment order, the petitioner preferred an appeal before the 3rd respondent Commissioner of Income Tax (Appeals) but it was dismissed by the 3rd respondent vide Ext.P3 order. Against Ext.P3 order, petitioner has again preferred Ext.P4 appeal and Ext.P5 stay petition before the 4th respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P2 assessment order.

2. Heard Sri.K.P.Pradeep, the learned counsel appearing for the petitioner and Sri.Jose Joseph, learned Standing counsel for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

1. The 4th respondent shall consider and pass orders on the stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner by the assessment order shall be kept in abeyance till orders are passed by the 4th respondent as directed above and communicated to the petitioner.

3. The order to be passed by the 4th respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp