

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 1461 of 2015 (G)

PETITIONER(S):

**THIRUNAVAYA GRAMA PANCHAYATH,
THIRUNAVAYA-676301, MALAPPURAM DISTRICT,
REPRESENTED BY THE PRESIDENT IN CHARGE V.MUHAMMED SHERIFF**

BY ADV. SRI.C.E.UNNIKRISHNAN

RESPONDENT(S):

- 1. INCOME TAX OFFICER, (TDS),
AAYAKAR BHAVAN, MANACHIRA, KOZHIKODE-673001.**
- 2. SMT.JASEELA, ASSISTANT ENGINEER,
KALLADA IRRIGATION PROJECT, KARUNAGAPPALLY,
KOLLAM PUBLIC, THIRUNAVAYA-690518.**
- 3. THE BRANCH MANAGER/HEAD,
KERALA GRAMIN BANK, THIRUNAVAYA BRANCH,
THIRUNAVAYA-676301.**

**R1 BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX
R3 BY SRI.DEVAN RAMACHANDRAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2008-2009**
- P1(A): COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2008-2009**
- P1(B): COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2008-2009**
- P1(C): COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2008-2009**
- P2: COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2009-2010**
- P2(A): COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2009-2010**
- P2(B): COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2009-2010**
- P2(C): COPY OF THE CHELAN EVIDENCING PAYMENT OF TAX DEDUCTED AT SOURCE FOR THE PERIOD 2000-2010**
- P3: COPY OF THE LETTER NO.ITO/TDS/CLT/H.GRIEV/2014-2015 DATED 9/12/14**
- P4: COPY OF THE REPLY DATED 18/12/14**
- P5: COPY OF THE NOTICE NO.ITNS.27 DATED 18/12/14**
- P6: COPY OF THE LIST OF EMPLOYEES AGAINST WHOM ACTION IS SOUGHT TO BE TAKEN**
- P7: COPY OF THE SHOW CAUSE NOTICE DATED 26/12/14 ISSUED AGAINST SMT.K.K.MINI.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S.TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1461 OF 2015 (G)

Dated this the 15th day of January, 2015

J U D G M E N T

The petitioner is a Panchayat, and in the writ petition, it is aggrieved by Ext.P3 and P5 notices issued to it by the 1st respondent in connection with recovery of penalty amounts that were confirmed on it under the Income Tax Act. It is the case of the petitioner that, while it has not preferred any appeal under the Income Tax Act against the penalty orders, due to financial constraints, it will not be able to honour the payments that are now demanded from it, within the period insisted upon by the 1st respondent. It is also pointed out that, on account of Ext.P5 notice that has been issued freezing the bank accounts of the petitioner, the petitioner is not able to carry on its activities including payment of wages to its employees. In that factual scenario, the limited prayer of the petitioner now, is for the grant of an installment facility for effecting the payments due to the 1st respondent.

2. I have heard Sri.C.E.Unnikrishnan, the learned counsel appearing for the petitioner, Sri.Jose Joseph, the learned Standing counsel appearing for the 1st respondent as also Sri.Devan Ramachandran, the learned counsel appearing for the 3rd respondent.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar and also taking into account the plea of financial hardship urged on behalf of the petitioner, I dispose the writ petition with the following directions:-

(i) If the petitioner pays an amount of Rs.5,00,000/- on or before 15.2.2015 and thereafter pays the balance amount due under Ext.P3 notice, together with accrued interest, in three equal and successive monthly installments commencing from 15.4.2015, then further proceedings pursuant to Exts.P3 and P5 notices shall be kept in abeyance by the 1st respondent.

(ii) The petitioner is permitted to operate the bank account covered by Ext.P5 notice, and the operation of Ext.P5 notice shall stand suspended to that extent for the time being.

(iii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the 1st respondent will be free to continue proceedings against the petitioner from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp