IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 1769 of 2015 (U)

PETITIONER :

THE KAPPAD SERVICE CO-OPERATIVE BANK LTD
P.O.KAPPAD, KANNUR, KANNUR-670 006.
REPRESENTED BY ITS SECRETARY
REJEEVAN P.K., AGED 47 YEARS

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

RESPONDENTS :
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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 4, KANNUR, AAYAKKAR BHAVAN,
KANNOTHUMCHAL, CHOVVA, KANNUR-670 006.

3. COMMISSIONER OF INCOME TAX (APPEALS)
KOZHIKODE, AAYAKAR BHAVAN, REVENUE BUILDING,
MANANCHIRA, KOZHIKODE.

4. JOINT COMMISSIONER OF INCOME TAX
KANNUR RANGE, AAYAKKAR BHAVAN, KANNOTHUMCHAL
CHOVVA, KANNUR-670 006.

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-01-2015 ALONG WITH WPC NO. 1797/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 1769 of 2015 (U)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE ASSESSMENT ORDER NO.AABAK4922D DATED 18.3.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE ASSESSMENT YEAR 2011-12.

P2: TRUE COPY OF THE APPEAL DATED 7.4.2014 FILED BEFORE THE 3RD RESPONDENT FOR THE YEAR 2011-12 AGAINST EXT.P1 ASSESSMENT ORDER.

P3: TRUE COPY OF THE STAY APPLICATION DATED 2.6.2014 FILED BEFORE THE 4TH RESPONDENT BY THE PETITIONER.

P4: TRUE COPY OF THE ORDER NO.AABAK4922D/JCT/KNR/2014-15 DATED 17.7.2014 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1769 OF 2015 (U)
&
W.P.(C).NO.1797 OF 2015 (Y)

Dated this the 20th day of January, 2015

J U D G M E N T

Against Ext.P1 assessment orders passed under the Income Tax Act, the petitioner has preferred Ext.P2 appeals before the 3rd respondent first appellate authority. The grievance of the petitioner is that even prior to considering Ext.P2 appeals, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P1 assessment orders.

2. Heard Sri.K.P.Pradeep, the learned counsel appearing for the petitioner in both the writ petitions and Sri. Jose Joseph, the learned Standing Counsel for the Income Tax department, appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I am of the view that insofar as the appeals preferred by the petitioner against the assessment orders is pending consideration before the 3rd respondent appellate authority, it would be in the interests of justice to direct the 3rd respondent authority to consider and pass orders on Ext.P2 appeals preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment. I note,

however, that in this case, substantial amounts have been confirmed against the petitioner by Ext.P1 assessment orders. Although counsel for the petitioner would point out that a similar issue for the earlier assessment years is pending consideration before this court in Income Tax Appeals that have been filed against the orders of the Appellate Tribunal, it is learnt that, in all those cases, the petitioner has deposited some amounts during the pendency of the appeals. Thus, in this case also, the petitioner is required to deposit a portion of the demand as a precondition for directing the 3rd respondent appellate authority to dispose the appeals on merits. Accordingly, the petitioner is directed to pay 50% of the tax amounts confirmed against it by the assessment orders, within a period of one month from the date of receipt of copy of this judgment. As already noticed, the 3rd respondent shall dispose of the appeals, after hearing the petitioner, within a period of two months from the date of receipt of copy of this judgment.

The writ petitions are disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp