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. 1772 of 2015 (V)

PETITIONER(S):

THE MOWANCHERY CO-OPERATRIVE 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):

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1. CENTRAL BOARD OF DIRECT TAXES,
   DEPARTMENT OF REVENUE,
   MINISTRY OF FINANCE, GOVERNMENT OF INDIA
   NORTH BLOCK, NEW DELHI, 110001,
   REPRESENTED BY ITS CHAIRMAN.

2. INCOME TAX OFFICER,
   WARD 1, KANNUR AAYAKKAR BHAVAN,
   KANNOTHUMCHAL, CHOVVA,
   KANNUUR-670006.

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

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 1772 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE CERTIFICATE NO.7000/2012/0 DATED 24.09.2012 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KANNUR TO THE PETITIONER

EXT.P2: TRUE COPY OF THE ASSESSMENT ORDER NO.AABAT4821C DATED 20.11.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE ASSESSMENT YEAR 2012-13

EXT.P3: TRUE COPY OF THE APPEAL DATED 23.12.2014 FILED BEFORE THE 3RD RESPONDENT FOR THE YEAR 2012-13 AGAINST EXT.P2 ASSESSMENT ORDER

EXT.P4: TRUE COPY OF THE DEMAND NOTICE NO. AABAT4821C DATED 20.11.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE YEAR 2012-13

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1772 OF 2015 (V)

Dated this the 20th day of January, 2015

J U D G M E N T

Against Ext.P2 assessment order passed under the Income Tax Act, the petitioner has preferred Ext.P3 appeal before the 3rd respondent Commissioner of Income Tax (Appeals). It is the case of the petitioner that even prior to considering Ext.P3 appeal, 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 Smt.Lilly K.T., the 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 am of the view that insofar as the appeal preferred by the petitioner against the assessment order 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.P3 appeal 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.P2 assessment order. 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 appeal itself on merits. Accordingly, the petitioner is directed to pay 50% of the tax amounts confirmed against it by Ext.P2 assessment order, within a period of one month from the date of receipt of copy of this judgment. As already noticed, the 3rd respondent shall dispose Ext.P3 appeal, after hearing the petitioner, within a period of two months from the date of receipt of copy of this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp