

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 2341 of 2015 (P)

PETITIONER :

**SHRI. T.C.VAVACHAN
THURUTHIPARAMBIL HOUSE, BRAHMAPURAM P.O.
AMBALAMEDU (VIA), ERNAKULAM DISTRICT - 683 303.**

**BY SENIOR ADVOCATE SRI.T.M.SREEDHARAN
BY ADVS.SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENT(S) :

- 1. THE INCOME TAX OFFICER, WARD-3/4
ALUVA - 682 315.**
- 2. THE COMMISSIONER OF INCOME TAX (APPEALS)-II
6TH FLOOR, KERA BHAVAN, SRVHS ROAD
COCHIN - 682 016.**
- 3. THE ASSISTANT REGISTRAR,
INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, 1ST FLOOR
(BLOCK C-I & C-II), KENDRIYA BHAVAN, OPP.CSEZ
KAKKANAD, COCHIN - 682 037.**

R1 TO R3 BY ADV. SRI.JOSE JOSEPH, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 2341 of 2015 (P)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: TRUE COPY OF ASSESSMENT ORDER AND DEMAND NOTICE DATED 30/03/2014 ISSUED BY THE 1ST RESPONDENT FOR AY-2011-12.
- EXT. P2: TRUE COPY OF ORDER DATED 1/10/2014 IN I.T.A NO.34/ALY/CIT-II/2013-14 ISSUED BY THE 2ND RESPONDENT.
- EXT. P3: TRUE COPY OF MEMORANDUM OF APPEAL DATED 1/1/2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P3(a): TRUE COPY OF PETITION FOR STAY DATED 1/1/2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P4: TRUE COPY OF THE HEARING NOTICES DATED 2/1/2015 ISSUED BY THE 3RD RESPONDENT.
- EXT. P5: TRUE COPY OF THE NOTICE DATED 9/1/2015 ISSUED BY THE 1ST RESPONDENT.
- EXT. P6: TRUE COPY OF THE REPLY DATED 19/1/2015 SENT BY THE PETITIONER TO THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2341 OF 2015

Dated this the 22nd day of January, 2015

J U D G M E N T

Against Ext.P2 first appellate order passed under the Income Tax Act for the assessment year 2011-2012, the petitioner preferred Ext.P3 appeal and P3(a) stay petition before the 3rd respondent Tribunal. The grievance of the petitioner in the writ petition is that, even before considering Ext.P3(a) stay application, steps have been initiated for recovery of the amounts confirmed against the petitioner by the assessment order.

2. I have heard Sri.T.M.Sreedharan, the learned Senior counsel for the petitioner and Sri.Jose Joseph, 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 dispose the writ petition with the following directions:

- i. The 3rd respondent shall consider and pass orders on Ext.P3(a) stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Recovery steps initiated against the petitioner for realization of the amounts confirmed against the petitioner by the assessment order for the said year shall be kept in abeyance till such time as the 3rd respondent passes orders as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

