IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 2519 of 2015 (L)

PETITIONER(S):

PALLIKKARA SERVICE CO-OP.BANK LTD,
PALLIKKERE, KASARAGOD - 671 316.
REP. BY ITS SECRETARY.

BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN

RESPONDENT(S):
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1. THE INCOME TAX OFFICER,
WARD NO.2, KASARAGOD, VIDHYA NAGAR P.O.,
PIN - 671 123.

2.THE COMMISSIONER OF INCOME TAX (APPEAL),
KOZHIKODE - 673 001.

R BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.2519/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 28.2.2014.

EXT.P2: COPY OF THE APPEAL DATED 19.3.2014 FILED BEFORE THE 2ND RESPONDENT.

EXT.P3: COPY OF THE ORDER DATED 15.5.2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P4: COPY OF THE LETTER DATED 29.12.2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P5: COPY OF THE STAY PETITION DATED 8.1.2015 FILED BY THE PETITIONER.

EXT.P6: COPY OF THE ORDER DATED 9.1.2015 ISSUED BY 1ST RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2519 OF 2015 (L)

Dated this the 23rd day of January, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Income Tax Act for the assessment year 2011-12, the petitioner has preferred Ext.P2 appeal before the 2nd respondent Appellate authority. It is stated that during the pendency of the appeal, the petitioner had also moved the 1st respondent in terms of Section 220(6) of the IT Act for treating him as an assessee not in default. It is pointed out that the 1st respondent had passed an order in his favour subject to his complying with the requirement of depositing of 50% of the demand confirmed against him by Ext.P1 assessment order. It is not in dispute that the said amount has been paid by the petitioner also. The grievance of the petitioner in the writ petition is that, the order passed by the 1st respondent, treating him as an assessee not in default, was a conditional one which limited its operation till 21.12.2014, and, hence, after that date, he does not enjoy the benefit of a stay of further proceedings for recovery of the balance amounts under Ext.P1. It is therefore that he prefers a writ petition seeking a direction to the 2nd respondent Appellate authority to consider and pass orders on Ext.P2 appeal itself and to keep recovery steps in abeyance till such time as the 2nd respondent passes orders in the appeal.

2. I have heard Sri.P.S.Sreedharan Pillai, the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the Income Tax Department.

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 a direction to the 2nd respondent Appellate authority to consider and pass orders on Ext.P2 appeal within a period of three months from the date of receipt of a copy of this judgment. Recovery steps, if any, initiated for recovery of the balance amounts due from the petitioner pursuant to Ext.P1, shall be kept in abeyance till such time as the 2nd respondent passes orders on Ext.P2 appeal and communicates the same to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp