IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4713 of 2015 (L)

PETITIONER(S):

CHERUVATHUR FARMERS SERVICE CO-OP. BANK LTD
CHERUVATHUR,
KASARGOD-671313 REPRESENTED BY ITS MANAGING DIRECTOR
MR. VINAYA KUMAR P.K.

BY ADV. SRI.A.KUMAR

RESPONDENT(S):
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1. THE COMMISSIONER OF INCOME TAX APPEALS
   CALICUT-673001.

2. THE INCOME COMMISSIONER
   WARD-2, KASARGOD, VIDYA NAGAR P.O.-671 123.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 4713 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE BYE-LAWS OF THE CO-OPERATIVE SOCIETY.

EXHIBIT P2: TRUE COPY OF THE ASSESSMENT ORDER FOR THE ASSESSMENT YEAR 2007-08 DATED 19.1.2015.

EXHIBTI P3: TRUE COPY OF THE ASSESSMENT ORDER FOR THE ASSESSMENT YEAR 2008-09 DATED 30.10.2014.

EXHIBIT P4: TRUE COPY OF THE ASSESSMENT ORDER FOR THE ASSESSMENT YEAR 2011-123 DATED 7.3.2014.

EXHIBTI P5: TRUE COPY OF THE ASSESSMENT ORDER OFR ASSESSMENT YEAR 2012-13 DATED 21.11.2014.

EXHIBIT P6: TRUE COPY OF MEMORANDUM OF APPEAL FOR THE ASSESSMENT YEAR 2008-09 DATED 5.12.2014.

EXHIBIT P7: TRUE COPY OF MEMORANDUM OF APPEAL FOR THE ASSESSMENT YEAR 2011-2012 DATED 8.4.2014.

EXHIBIT P8: TRUE COPY OF MEMORANDUM OF APPEAL FOR THE ASSESSMENT YEAR 2012-13 DATED 19.12.2014.

EXHIBIT P9: TRUE COPY OF NOTICE DATED 9.1.2015 DEMANDING BALANCE PAYMENT.

EXHIBIT P10: A TRUE COPY OF NOTICE DATED 3.2.2015 ISSUED BY 2BND RESPONDNT TO KASARAGOD DISTRICT CO-OPERATIVE BANK.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4713 OF 2015 (L)

Dated this the 13th day of February, 2015

<u>J U D G M E N T</u>

The petitioner, which is a primary agricultural credit society, is an assessee under the Income Tax Act. Against Exts.P3, P4 and P5 assessment orders under the Income Tax Act for the assessment years 2008-09, 2011-12 and 2012-13, the petitioner has preferred Exts.P6, P7 and P8 appeals before the 1st respondent. It is stated that during the pendency of these appeals, for the assessment years 2007-08, 2008-09, 2011-12 and 2012-13, the petitioner has already paid Rs.23 lakhs towards outstanding taxed interest and dues. The total outstanding taxed interest as far as the orders impugned in the appeals are concerned, is approximately Rs.1,15,00,000/-. Under these circumstances and faced with recovery steps for recovery of the balance amounts confirmed against the petitioner by the assessment orders in question, the prayer of the petitioner in the writ petition is for a direction to the 1st respondent to consider and pass orders in Ext.P6, P7 and P8 appeals that are pending before him, within a stipulated period and to keep in abeyance the recovery proceedings in the meanwhile.

2. I have heard Sri.A.Kumar, the learned counsel appearing for the petitioner as also Sri.Jose Joseph, 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 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) The 1st respondent shall pass final orders on Exts.P6, P7 and P8 appeals within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.
>
> (ii) Recovery steps, if any, initiated against the petitioner for recovery of the balance tax and interest dues including the garnishee proceedings, for the assessment years 2007-08, 2008-09, 2011-12 and 2012-13 shall be kept in abeyance till such time as the 1st respondent passes orders as directed in this

judgment and communicates the same to the petitioner, on condition that the petitioner remits an amount of Rs.12,00,000/- on or before 25.3.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp