IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 5025 of 2015 (C)

PETITIONER :

M/S.KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD., TRIVANDRUM.

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.C.S.SULEKHA BEEVI
SMT.ROSIE ATHULYA JOSEPH
KUM.SOUMYA PRAKASH

RESPONDENT(S):
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1. **DEPUTY COMMISSIONER OF INCOME TAX CIRCLE I (2), THIRUVANANTHAPURAM - 695 003.**

2. **THE COMMISSIONER OF INCOME TAX (APPEALS) - I, AAYAKAR BHAVAN, KOWDIAR, THIRUVANANTHAPURAM -695 003.**

3. **INCOME TAX OFFICER, WARD - 2 (1), THIRUVANANTHAPURAM - 695 003.**

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 5025 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1:	TRUE COPY OF THE ASSESSMENT ORDER DATED 19.3.2013 FOR THE YEAR 2010-11 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT
EXT.P-2:	TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2010 - 11
EXT.P-3:	TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT FOR THE YEAR 2010 - 11.
EXT.P-4:	TRUE COPY OF THE ORDER OF THE SECOND RESPONDENT DATED 28.11.2014 FOR THE YEAR 2010 - 11.
EXT.P-5:	TRUE COPY OF THE NOTICE DATED 11.2.2015 ISSUED BY THE 3RD RESPONDENT
EXT.P-6: - A:	TRUE COPY OF LETTER SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT
EXT.P-6: - B:	TRUE COPY OF LETTER DATED 12.2.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
EXT.P-6: - C:	TRUE COPY OF LETTER DATED 12.2.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.5025 of 2015 (C)

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Dated this the 9th day of March, 2015

JUDGMENT

The petitioner in the present writ petition had approached this Court challenging the steps taken by the respondents to demand differential tax from the petitioner under the Income Tax Act, pursuant to the passing of Ext.P5 order.

2. It is the case of the petitioner that, while Ext.P5 order was passed consequent to an appellate order, the appellate order itself had not been served on the petitioner and hence, he could not prefer an appeal against the said appellate order before the appellate Tribunal under the Income Tax, 1961.

3. When the matter was called up today, it was pointed out by the learned counsel for the petitioner that, he has since received a copy of the appellate order and he would like to prefer an appeal against the said order. The only prayer in the writ petition now is, for keeping the recovery proceedings pursuant to Ext.P5 in abeyance, till such time as the petitioner files an appeal against the appellate order, that has now been communicated to him.

4. I have heard Sri.Anil D.Nair, the learned counsel for the petitioner and Sri.Jose Jose, the learned Standing counsel for the respondents.

5. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar and taking note of the submissions of the learned counsel for the petitioner, that he has since been served with a copy of the appellate order, I dispose the writ petition with the following directions :

> (i) The recovery steps initiated against the petitioner for recovery of the amounts confirmed against him by Ext.P5 order shall be kept in abeyance for a period of one month, so as to enable the petitioner to prefer an appeal against the appellate order, now communicated to him, before the Income Tax Appellate Tribunal.
>
> (ii) It is made clear that, the stay against recovery proceedings granted above, shall cease to be in force on the expiry of the period of one month.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/09/03/