IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).NO. 5734 OF 2015 (N)

PETITIONER(S):

SAIL - SCL KERALA LTD.,
(STEEL AUTHORITY OF INDIA &
GOVERNMENT OF KERALA JOINT VENTURE COMPANY),
REPRESENTED BY ITS MANAGING DIRECTOR, KOZHIKODE.

BY ADVS.SRI.K.P.BALASUBRAMANYAN,
SRI.NIRMAL. S.

RESPONDENT(S):
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1. THE CENTRAL BOARD OF DIRECT TAXES,
FIRST FLOOR, MAYUR BHAVAN, NEW DELHI -110 001.

2. THE CHIEF COMMISSIONER OF INCOME TAX,
I.S. PRESS ROAD, KOCHI- 682 018.

3. INCOME TAX OFFICER 2(1),
KOZHIKODE 673 001.

BY ADV. SRI.K.M.V. PANDALAI, SC.

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

rs.

WP(C).NO. 5734 OF 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE MODIFIED SANCTIONED SCHEME BOARD FOR INDUSTRIAL & FINANCIAL RECONSTRUCTION CASE NO.614/1992.
EXT.P2	COPY OF THE SUMMARY RECORDS OF THE PROCEEDING OF THE HEARING HELD ON 10/06/2010.
EXT.P3	COPY OF THE LETTER FROM DIRECTORATE OF INCOME TAX TO THE CHIEF COMMISSIONER OF I.T., KOCHI.
EXT.P4	COPY OF THE SUMMARY RECORDS (DISCHARGE ORDER) OF THE PROCEEDING OF THE HEARING HELD ON 22/01/2013.
EXT.P5	COPY OF THE PETITION FILED U/S.119 OF THE I.T. ACT (WITHOUT ANNEXURES).

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5734 of 2015

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Dated this the 3rd day of March, 2015

JUDGMENT

The petitioner company which was referred to the Board for Industrial & Financial Reconstruction (BIFR) in 1992, subsequently came to be governed by a scheme of rehabilitation, sanctioned by the BIFR as a measure for its rehabilitation. It is pointed out that, as per the sanctioned scheme there were certain obligations to be discharged by the Income Tax Department, in the matter of waiver of income tax dues of the petitioner company. Pursuant to the sanctioning of the Scheme, of which the obligations of the Income Tax Department constituted an integral part, the matter was referred to the 1st respondent Board. The Deputy Director of Income Tax, New Delhi, addressed Ext.P3 letter to the 2nd respondent herein seeking certain clarifications so that the files in relation to the petitioner company could be put up before the 1st respondent Board. When nothing was heard from the respondent thereafter, the petitioner addressed Ext.P5 representation to the 1st respondent Board, bringing to its notice the contents of the sanctioned scheme of the BIFR, and the obligations that were required to be met by the Income Tax Department for the purposes of implementation of the Scheme. It is stated that no action has been taken by the 1st respondent Board on the said representation preferred by the petitioner. It is also stated that in the meanwhile, the petitioner company apprehends a demand of tax from the Income Tax Department and it is under these circumstances, the writ petition has been filed.

2. I have heard Sri.K.P.Balasubramanian, the learned counsel for the petitioner and Sri.Jose Joseph, the learned Standing counsel for the Income Tax Department.

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 in as much as the implementation of the scheme sanctioned by BIFR requires certain decisions to be taken by the Income Tax Department, and the matter is currently pending consideration before the 1st respondent Board, it would be in the interests of justice to direct the 1st respondent Board to consider and pass appropriate orders on Ext.P5 representation, that has been filed by the petitioner company before the 1st respondent Board. Accordingly, the 1st respondent Board is directed to consider and pass orders on Ext.P5 representation within a period of three months from the date of receipt of a copy of the judgment, if necessary, after hearing the petitioner. The respondent Board shall then communicate its decision to the petitioner and to the BIFR. I make it clear that till such time as orders are passed by the 1st

respondent Board as directed, and communicated to the petitioner, no steps shall be pursued against the petitioner company for recovery of the income tax dues for the assessment year 2012-2013. The 3rd respondent is free to complete the assessment for the assessment year 2012-2013 as per law and the only interdiction in this judgment is with regard to making a demand against the petitioner company for any tax liability arising out of the completed assessment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/