

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 8645 of 2015 (E)

PETITIONER:

**EDARIKODE SERVICE CO OPERATIVE
BANK LTD. NO.10739, EDARIKODE.P.O.,
MALAPPURAM, REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

- 1. THE INCOME TAX OFFICER,
WARD NO.3, TIRUR,
MALAPPURAM DISTRICT - 676 505.**
- 2. THE COMMISSIONER OF INCOME TAX(APPEALS),
AAYAKAR BHAVAN, MANANCHIRA,
KOZHIKODE - 673 001.**

BY SRI.K.M.V.PANDALI, CG

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 : COPY OF THE ASSESSMENT ORDER FOR 2009-10.
EXHIBIT P2 : COPY OF THE ASSESSMENT ORDER FOR 2010-11.
EXHIBIT P3 : COPY OF THE ASSESSMENT ORDER FOR 2011-12.
EXHIBIT P4 : COPY OF THE APPEAL ASSESSMENT YEAR 2009-10.
EXHIBIT P5 : COPY OF THE APPEAL ASSESSMENT YEAR 2010-11.
EXHIBIT P6 : COPY OF THE APPEAL ASSESSMENT YEAR 2011-12.
EXHIBIT P7 : COPY OF THE STAY PETITION FOR THE ASSESSMENT YEAR 2009-10.
EXHIBIT P8 : COPY OF THE STAY PETITION FOR THE ASSESSMENT YEAR 2010-11.
EXHIBIT P9 : COPY OF THE STAY PETITION FOR THE ASSESSMENT YEAR 2011-12.
EXHIBIT P10 : COPY OF THE PROCEEDINGS DATED 18.2.2015.
EXHIBIT P11 : COPY OF THE PROCEEDINGS DATED 5.3.2015.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8645 of 2015

.....
Dated this the 18th day of March, 2015

J U D G M E N T

Against Exts.P1 to P3 assessment orders under the Income Tax Act, the petitioner has preferred Exts.P4 to P6 appeals and Exts.P7 to P9 stay petitions before the 2nd respondent. The 2nd respondent thereafter considered the stay petitions and passed Ext.P11 order, rejecting the stay petitions by relying on certain decisions. On a perusal of Ext.P11 order, however, it is seen that there is no discussion with regard to the issues raised by the petitioner in the appeals filed before the 2nd respondent, or a consideration of the financial hardship that is faced by the petitioner. It is also pointed out that there was no notice issued to the petitioner prior to passing of Ext.P11 order and the petitioner was also not heard in the matter.

2. I have heard the learned counsel for the petitioner and 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 find that in Ext.P11 order of the 2nd respondent, there is no consideration of

the merits of the petitioner's case or the issue of financial hardship that was raised by the petitioner. It is also evident that the petitioner was not put on notice before considering the matter and he was also not afforded a personal hearing. In that view of the matter, Ext.P11 order is vitiated by a non-compliance with the principle of natural justice. Thus, I quash Exts.P11 and direct the 2nd respondent to reconsider the stay petitions filed by the petitioner after providing him with an opportunity of being heard. The 2nd respondent shall pass fresh orders on the stay petitions within a period of two months from the date of receipt of a copy of this judgment. The petitioner shall appear before the 2nd respondent at 11 am on 07.04.2015 for a hearing before the 2nd respondent. I make it clear that, till orders are passed as directed, by the 2nd respondent and communicated to the petitioner. Recovery steps pursuant to Ext.P10 shall be kept in abeyance.

The writ petition disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

