IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 9237 of 2015 (D)

PETITIONER(S):

THE KASARAGOD DISTRICT CO-OPERATIVE BANK LTD.,
PB NO.48, NAYAKS ROAD, KASARAGOD,
REPRESENTED BY ITS GENERAL MANAGER,
ANIL KUMAR, AGED 41 YEARS,
S/O.AIYYAPPAN PILLAI.

BY ADV. SRI.JAWAHAR JOSE.

RESPONDENT(S):
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1. THE COMMISSIONER OF INCOME TAX (APPEALS),
   KOZHIKODE.

2. THE ASSISTANT COMMISSIONER OF INCOME TAX,
   CIRCLE-I, KANNUR RANGE, KANNUR.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 9237 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE ASSESSMENT ORDER DATED 05/02/2015 FOR THE ASSESSMENT YEAR 2012-2013.

EXT.P2 COPY OF THE NOTICE UNDER SECTION 156 OF THE INCOME TAX ACT.

EXT.P3 COPY OF THE NOTICE UNDER SECTION 271 OF THE INCOME TAX ACT.

EXT.P4 COPY OF THE MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P5 COPY OF THE ORDER DATED 10/03/2015 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 COPY OF THE ASSESSMENT ORDER DATED 02/03/2015 FOR THE ASSESSMENT YEAR 2009-2010.

EXT.P7 COPY OF THE ORDER DATED 12/03/2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 9237 of 2015

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Dated this the 24th day of March, 2015

JUDGMENT

Against Ext.P1 assessment order passed under the Income Tax Act, for the assessment year 2012-2013, the petitioner preferred Ext.P4 appeal before the 1st respondent appellate authority. It is pointed out that pursuant to a demand of Rs.54,03,750/- that was raised on the petitioner, consequent to the assessment order, the respondents have already adjusted an amount of Rs.27,08,245/-, which was due to the petitioner by way of refund, as discernible from Ext.P6 order. The adjustment effected by the respondents resulted in the outstanding liability of the petitioner for the assessment year 2012-13 being reduced to Rs.26,95,500/-. It is the case of the petitioner that, inasmuch as the said amount of Rs.27,08,245/- has been adjusted by the respondents towards the liability for the assessment year 2012-13, a direction may be issued to the appellate authority to consider and pass orders in the appeal itself, without insisting on any further deposit of tax as a condition for the grant of stay pending disposal of the appeal.

2. I have heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the

respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and in particular, taking note of the fact that an amount of Rs.27,08,245/- has already been adjusted by the 1st respondent against the liability for the assessment year 2012-13, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.P4 appeal filed by the petitioner before the 1st respondent, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

The recovery steps pursuant to Ext.P7 notice shall be kept in abeyance till such time as the 1st respondent passes orders, as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das