

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. 9299 of 2015 (J)

PETITIONER :

**VENGARA SERVICE CO-OPERATIVE RURAL BANK LTD.
NO.F-1186, VENGARA 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.**

R1 & R2 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:**

Mn

...2/-

WP(C).No. 9299 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT. P1 : COPY OF THE ASSESSMENT ORDER FOR 2009-10.**
- EXT. P2 : COPY OF THE ASSESSMENT ORDER FOR 2010-11.**
- EXT. P3 : COPY OF THE ASSESSMENT ORDER FOR 2011-12.**
- EXT. P4 : COPY OF THE APPEAL FOR THE ASSESSMENT YEAR 2009-10.**
- EXT. P5 : COPY OF THE APPEAL FOR THE ASSESSMENT YEAR 2010-11.**
- EXT. P6 : COPY OF THE APPEAL FOR THE ASSESSMENT YEAR 2011-12.**
- EXT. P7 : COPY OF THE STAY PETITION FOR THE ASSESSMENT YEAR 2009-10.**
- EXT. P8 : COPY OF THE STAY PETITION FOR THE ASSESSMENT YEAR 2010-11.**
- EXT. P9 : COPY OF THE STAY PETITION FOR THE ASSESSMENT YEAR 2011-12.**
- EXT. P10 : COPY OF THE PROCEEDINGS DTD.12.3.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 9299 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

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.P10 order, rejecting the stay petitions by relying on certain decisions. On a perusal of Ext.P10 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.P10 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.P10 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.P10 order is vitiated by a non-compliance with the principle of natural justice. Thus, I quash Exts.P10 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 10.04.2015 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 for recovery of the amounts confirmed against the petitioner by the orders impugned in the appeals, shall be kept in abeyance.

The writ petition disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

W.P.(C). No. 9299 of 2015