

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 10887 of 2015 (I)

PETITIONER:

**M/S. MITHRA AGRICULTURAL
PRODUCE COMPANY LTD., 40/1550,
DERG, AKSHARA MANDIRAM, MARINE DRIVE,
KOCHI - 682 011, REPRESENTED BY ITS
CHAIRMAN SHRI.ANSON K.MALIAKKAL.**

**BY SRI.T.M.SREEDHARAN (SENIOR ADVOCATE)
ADVS. SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENT(S):

- 1. THE COMMISSIONER OF INCOME TAX(TDS),
C.R.BUILDING, I.S.PRESS ROAD, KOCHI - 682 018.**
- 2. THE JOINT COMMISSIONER OF INCOME TAX(TDS),
C.R.BUILDING, I.S.PRESS ROAD, KOCHI - 682 018.**
- 3. THE ASSISTANT COMMISSIONER OF INCOME TAX(TDS),
OFFICE OF THE ADDITIONAL COMMISSIONER
OF INCOME TAX(TDS), C.R.BUILDING,
I.S.PRESS ROAD, KOCHI - 682 018.**
- 4. THE COMMISSIONER OF INCOME TAX(APPEALS)-III,
6TH FLOOR, KERABHAVAN, SRVHS ROAD, COCHIN - 682 016.**

***ADDL.R5 IMPEADED**

- 5. INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH,
1ST FLOOR,(BLOCK C-I & C-II), KENDRIYA BHAVAN,
OPP.CSEZ, KAKKANAD, COCHIN - 682 037,
REPRESENTED BY ASSISTANT REGISTRAR.**

ADDL. R5 IS IMPEADED AS PER ORDER DATED 7.4.2015 IN IA.5312/2015.

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 :** TRUE COPY OF THE NOTICE F.NO.65/JCIT/(TDS)/KOCHI/271C/2011-12/34 DATED 6.2.2012 FOR A.Y.2009-10 ISSUED BY THE 2ND RESPONDENT.
- EXT P(A) :** TRUE COPY OF THE NOTICE F.NO.65/JCIT/(TDS)/KOCHI/271C/2011-12/34 DATED 6.2.2012 FOR A.Y.2010-11 ISSUED BY THE 2ND RESPONDENT.
- EXT. P1(B) :** TRUE COPY OF THE NOTICE F.NO.65/JCIT/(TDS)/KOCHI/271C/2011-12/34 DATED 6.2.2012 FOR A.Y.2011-12 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P2 :** TRUE COPY OF THE REPLY DATED 29.2.2012 GIVEN TO THE 2ND RESPONDENT FOR THE FY.2009-10.
- EXHIBIT P3 :** TRUE COPY OF THE TABULATION STATEMENT SHOWING THE REMITTANCE OF TDS AMOUNT FOR F.Y 2009-10, 2010-11 & 2011-12.
- EXHIBIT P4 :** TRUE COPY OF THE ORDER DATED 27.8.2012 ISSUED U/S 271C FOR AY-2009-10 ALONG WITH DEMAND NOTICE.
- EXT. P4(A) :** TRUE COPY OF THE ORDER DATED 27.8.2012 ISSUED U/S 271C FOR AY-2010-11 ALONG WITH DEMAND NOTICE.
- EXT. P4(B) :** TRUE COPY OF THE ORDER DATED 27.8.2012 ISSUED U/S 271C FOR AY-2011-12 ALONG WITH DEMAND NOTICE.
- EXHIBIT P5 :** TRUE COPY OF THE ORDER NO.27/TDS/EKM/CIT(A)-111/12-13 DATED 21.1.2015 FOR AY-2009-10.
- EXHIBIT P6 :** TRUE COPY OF THE ORDER NO.28/TDS/EKM/CIT(A)-111/12-13 DATED 21.1.2015 FOR AY-2010-11.
- EXHIBIT P7 :** TRUE COPY OF THE ORDER NO.29/TDS/EKM/CIT(A)-111/12-13 DATED 21.1.2015 FOR AY-2011-12.
- EXHIBIT P8 :** TRUE COPY OF THE NOTICE NO.CIT(TDS)/KOCHI/PROSECUTION-25/2012-13 DATED 7.3.2014 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P9 :** TRUE COPY OF THE REPLY DATED 31.3.2014 GIVEN BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXHIBIT P10 :** TRUE COPY OF THE NOTICE NO.ACIT(TDS)/KOCHI/PROSECUTION/2014-15/9 DATED 15.12.2014.
- EXHIBIT P11 :** TRUE COPY OF THE REPLY DATED 5.2.2015 GIVEN BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXHIBIT P12 :** TRUE COPY OF THE LETTER DATED 30.3.2015 SENT BY THE PETITIONER TO THE 3RD RESPONDENT.

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**EXHIBIT P13 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
5TH RESPONDENT FOR THE FINANCIAL YEAR 2009-10.**

**EXT. P13(A) : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 5TH RESPONDENT FOR THE FINANCIAL YEAR 2009-10.**

**EXHIBIT P14 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
5TH RESPONDENT FOR THE FINANCIAL YEAR 2010-11.**

**EXT. P14(A) : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 5TH RESPONDENT FOR THE FINANCIAL YEAR 2010-11.**

**EXHIBIT P15 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
5TH RESPONDENT FOR THE FINANCIAL YEAR 2011-12.**

**EXT. P15(A) : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 5TH RESPONDENT FOR THE FINANCIAL YEAR 2011-12.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.10887 of 2015 (I)

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Dated this the 7th day of April, 2015

JUDGMENT

Challenging Exts.P4, P4(a) and P4(b) assessment orders under the Income Tax Act, 1961, the petitioner has preferred Exts.P13, P14 and P15 appeals along with Exts.P13(a), P14(a) and P15(a) stay petitions before the 5th respondent. It is the case of the petitioner that even prior to considering the stay petitions, recovery steps have been initiated against him through Exts.P8 and P10 notices, for recovery of the amounts confirmed in Exts.P4, P4(a) and P4(b) assessment orders.

2. I have heard Sri.T.M.Sreedharan, learned senior counsel appearing for petitioner and Sri.K.M.V.Pandalai, learned standing counsel for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 5th respondent to pass orders on Exts.P13 (a), P14(a) and P15(a) stay petitions preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 5th respondent shall contain reasons for the decision arrived at by him.

Recovery steps, for recovery of the amounts confirmed against the petitioner by Exts.P4, P4(a) and P4(b) assessment orders, as also all further steps pursuant to Exts.P8 and P10 notices, shall be kept in abeyance till such time as the 5th respondent passes orders, as directed above, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/04/

