

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12459 of 2015 (F)

PETITIONER(S):

**CHENKAL SERVICE CO-OP.BANK LTD.NO.1258
CHENKAL P.O., NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT, PIN : 695 132,
REPRESENTED BY ITS SECRETARY, SHEELA DEVI.A.**

**BY ADVS.DR.PAULY MATHEW MURICKEN
SRI.P.L.VENU KUMAR**

RESPONDENT(S):

**1.COMMISSIONER OF INCOME TAX (APPEALS),
THIRUVANANTHAPURAM 695 003.**

**2.INCOME TAX OFFICER,
WARD 2(3), THIRUVANANTHAPURAM 695 003.**

**3.INCOME TAX OFFICER,
WARD 1(1), THIRUVANANTHAPURAM 695 003.**

**4.INCOME TAX OFFICER, WARD 2(2),
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX,
KOWDIAR, THIRUVANANTHAPURAM 695 003.**

**5.THE MANAGER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
UDIYANKULANGARA BRANCH, UDIYANKULANGARA,
THIRUVANANTHAPURAM DISTRICT, PIN 695 122.**

**R BY SRI.K.M.V.PANDALAI, SC, INCOME TAX DEPARTMENT
R BY SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM DIST.CO.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ASSESSMENT ORDER DATED 31.3.2014 AND THE CONSEQUENT DEMAND NOTICE DATED 31.3.2014 ISSUED BY THE 2ND RESPONDENT.

EXT.P2: COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED 29.9.2014 UNDER SECTION 271(1)(C) OF THE INCOME TAX ACT AND THE NOTICE OF DEMAND DATED 29.9.2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P3: COPY OF THE PROCEEDINGS DATED 29.9.2014 ISSUED BY THE 3RD RESPONDENT UNDER SECTION 271(F) OF THE INCOME TAX ACT AND THE NOTICE OF DEMAND DATED 29.9.2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P4: COPY OF THE APPEAL DATED 6.4.2015 SUBMITTED BY THE PETITIONER AGAINST EXT.P1 ORDER OF ASSESSMENT AND NOTICE OF DEMAND.

EXT.P4(A): COPY OF THE STAY PETITION FILED IN EXT.P4 APPEAL.

EXT.P4(B): COPY OF THE DELAY CONDONATION APPLICATION FILED IN EXT.P4 APPEAL.

EXT.P4(C): COPY OF THE URGENT PETITION FOR EARLY HEARING FILED IN EXT.P4 APPEAL.

EXT.P4(D): COPY OF THE CHALLAN REPORT EVIDENCING PAYMENT OF RS.1,000/- BY THE PETITIONER.

EXT.P5: COPY OF THE APPEAL DATED 6.4.2015 SUBMITTED BY THE PETITIONER SOCIETY BEFORE THE 1ST RESPONDENT AGAINST EXT.P2 PENALTY PROCEEDINGS AND NOTICE OF DEMAND.

EXT.P5(A): COPY OF THE STAY PETITION FILED IN EXT.P5 APPEAL.

EXT.P5(B): COPY OF THE DELAY CONDONATION APPLICATION FILED IN EXT.P5 APPEAL.

EXT.P5(C): COPY OF THE URGENT PETITION FOR EARLY HEARING FILED IN EXT.P5 APPEAL.

EXT.P5(D): COPY OF THE CHALLAN REPORT EVIDENCING PAYMENT OF RS.1,000/- BY THE PETITIONER.

EXT.P6: COPY OF THE APPEAL DATED 6.4.2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT AGAINST EXT.P3 ORDER AND NOTICE OF DEMAND ISSUED UNDER SECTION 271(F) OF THE INCOME TAX ACT..

W.P.(C).NO.12459/2015

EXT.P6(A): COPY OF THE STAY PETITION FILED IN EXT.P6 APPEAL.

EXT.P6(B): COPY OF THE DELAY CONDONATION APPLICATION FILED IN EXT.P6 APPEAL.

EXT.P6(C): COPY OF THE URGENT PETITION FOR EARLY HEARING FILED IN EXT.P6 APPEAL.

EXT.P6(D): COPY OF THE CHALLAN REPORT EVIDENCING PAYMENT OF RS.500/- BY THE PETITIONER.

EXT.P7: COPY OF THE NOTICE DATED 24.3.2015 ISSUED BY THE 4TH RESPONDENT TO THE 5TH RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.12459 OF 2015 (F)

Dated this the 10th day of April, 2015

J U D G M E N T

Against Ext.P1 assessment order and Exts.P2 and P3 penalty orders under the Income Tax Act, the petitioner had preferred Exts.P4, P5 and P6 appeals before the 1st respondent. Along with the appeals, the petitioner had also preferred Exts.P4(a), P5(a) and P6(a) stay petitions and Exts.P4(b), P5(b) and P6(b) delay condonation petitions before the 1st respondent. It is the case of the petitioner that, even prior to considering the stay petitions, recovery steps are taken by the respondents for recovery of the amounts confirmed against the petitioner by Ext.P1 assessment order and Exts.P2 and P3 penalty orders.

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

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

1. The 1st respondent shall consider and pass orders on Exts.P4(a), P5(a) and P6(a) stay petitions and Exts.P4(b), P5(b) and P6(b) delay condonation

petitions within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P1 assessment order and Exts.P2 and P3 penalty orders as also the operation of Ext.P7 notice shall be kept in abeyance till orders are passed by the 1st respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp