IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 24898 of 2012 (J)

PETITIONER(S):

KUZUPPILLY SERVICE CO-OPERATIVE BANK LTD.NO.E-138
AYYAMPILLY P.O. ERNAKULAM DISTRICT,
REPRESENTED BY ITS SECRETARY.

BY ADVS.SRI.M.PAUL VARGHESE
SRI.DESI MATTHAI

RESPONDENT(S):

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1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY
TO FINANCE DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.695001.

2. DISTRICT TREASURY OFFICER,
ERNAKULAM DISTRICT TREASURY, KAKKANAD. 682030.

3. DIRECTOR OF TREASURIES,
THIRUVANANTHAPURAM 695001.

4. THE COMMISSIONER OF INCOEM TAX
CENTRAL REVENUE BUILDING, I.S.PRESS ROAD, ERNAKULAM
PIN 682018.

R4 BY ADV. SRI.JOSE JOSEPH, SC, FOR INCOME TAX
R1 BY GOVERNMENT PLEADER SRI.GEORGE MECHERIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.24898/2012

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE LETTER DATED 20.6.2012.

EXT.P2: COPY OF THE LETTER 209/GC/CC-TVM/T/2008-09 DATED 5.11.2009.

EXT.P3: COPY OF THE LETTER DATED 30.6.2011 WRITTEN BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P4: COPY OF THE LETTER DATED 24.4.2012.

EXT.P5: COPY OF THE LETTER DATED 28.4.2012.

EXT.P6: COPY OF THE LETTER NO.KZY/ITP-1/12-13 DATED 17.5.2012.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.24898 OF 2012 (J)

Dated this the 7th day of September, 2015

J U D G M E N T

The petitioner, who is a Primary Service Co-operative Bank functioning under the Kerala Co-operative Societies Act and Rules, is aggrieved by the deduction of tax at source from interest payments that were made to it, by the 2nd respondent, in respect of the amounts deposited with the said respondent. It is the case of the petitioner in the writ petition that in previous years, the 2nd respondent had not deducted any tax at source from payments of interest to the petitioner, and for the first time such a course of action was resorted to in the year 2012-13. It is aggrieved by the said deduction of tax that the petitioner has approached this Court seeking a direction to the respondents to refund the tax erroneously deducted.

2. I have heard the learned counsel for the petitioner, learned Government Pleader for respondents 1, 2 and 3 as also the learned Standing counsel for the 4th respondent.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that, during the pendency of the writ petition, the 2nd respondent had remitted the amounts, deducted by way of tax from payments effected to the 1st respondent, to the Income Tax Department. Under the said circumstances, therefore, the remedy of the petitioner, to claim refund of the amounts deducted by the 2nd respondent by way of tax, lies in approaching the Income Tax Department for a refund of the same, in accordance with the provisions of the Income Tax Act. Thus, relegating the petitioner to the alternate remedy of approaching the 4th respondent/Income Tax Department, through appropriate proceedings under the Income Tax Act for claiming refund of the tax deducted at source, the writ petition is disposed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp