IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 24442 of 2015 (E)
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PETITIONER(S):

S.BABU,
SARAVANA FUELS, 17/782-2, CHITTUR ROAD,
MANAPULLIKKAVU, PALAKKAD.

BY ADVS.SRI.M.P.ASHOK KUMAR
SRI.P.C.GOPINATH
SMT.BINDU SREEDHAR
SMT.R.S.MANJULA

RESPONDENT(S):
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1. THE COMMISSIONER OF INCOME TAX,
AAYKAR BHAVAN, NEAR HEART HOSPITAL,
SAKTHAN THAMPURAN NAGAR, TRISSUR-680 001.

2. TAX RECOVERY OFFICER,
INCOME TAX DEPARTMENT, AAYKAR BHAVAN, S.T.NAGAR,
THRISSUR-680 001.

3. THE MANAGER,
INDIAN BANK, PALAKKAD-678 001.

4. THE MANAGER,
KARUR VYSYA BANK, PALAKKAD-678 001.

5. THE MANAGER,
PANJAB NATIONAL BANK, KANJIKKODE BRANCH,
PALAKKAD-678001.

R1 & R2 BY ADVS. SRI.JOSE JOSEPH, SC
SRI.P.K.R.MENON, SR.COUNSEL,
R3 BY SRI.S.EASWARAN
R5 BY SRI.SANTHEEP ANKARATH, SC, PUNJAB NATIONAL BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 24442 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2003-2004.

P1A : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2004-2005.

P1B : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2005-2006.

P1C : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2006-2007

P1D : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2007-2008

P1E : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2008-2009.

P1F : PHOTOCOPY OF THE DEMAND NOTICES ISSUED BY R1 UNDER SEC.222 OF INCOME TAX ACT FOR THE ASSESSMENT YEAR 2009-2010

P2: PHOTOCOPY OF THE DEMAND PENDING PARTICULARS OF INCOME TAX AND INTEREST ARREARS ISSUED BY THE AUDITOR TO THE DEPARTMENT.

P3: PHOTOCOPY OF THE NOTICE ISSUED BY 2ND RESPONDENT TO THE 3RD RESPONDENT DT.30-7-2015.

P4: PHOTOCOPY OF THE NOTICE ISSUED BY 2ND RESPONDENT TO THE 4TH RESPONDENT DT.30-7-2015.

P5: PHOTOCOPY OF THE NOTICE ISSUED BY 2ND RESPONDENT TO THE 5TH RESPONDENT DT.30-7-2015.

P6: PHOTOCOPY OF THE APPLICATION FILE BY THE PETITIONER DT.7-8-2015.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 24442 of 2015

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Dated this the 28th day of October 2015

JUDGMENT

The limited prayer of the petitioner in the writ petition is for a direction to the 1st respondent, before whom Ext.P6 application has been filed by the petitioner seeking a waiver of interest that has been charged under Sections 234A, 234B, 234C and 220(2) of the Income Tax Act for the assessment years 2003-2004 to 2009-2010, to dispose the said application. At the time of admission of the writ petition, this court had granted a stay of operation of Exts.P3, P4 and P5 attachment notices issued by the 2nd respondent on condition that the petitioner paid an amount of Rs.10,00,000/- on or before 24.08.2015. It is stated that the petitioner had paid the amount of Rs.10,00,000/- within the time that was permitted by the Division Bench in Writ Appeal No.1858/2015 that was filed by the petitioner against the interim order dated 12.08.2015 of this Court. As I find that the only issue that remains to be considered is the waiver of interest under the relevant provisions of the Income Tax Act, and the petitioner has already preferred Ext.P6 representation before the 1st respondent in connection with the same, I feel that the writ petition itself can be disposed with the following directions:-

i) The 1st respondent is directed to consider and pass orders on Ext.P6 application preferred by the petitioner for waiver of interest under Sections 234A, 234B, 234C and 220(2) of the Income Tax Act. The 1st respondent shall afford the petitioner an opportunity of hearing and thereafter pass orders within a period of three months from the date of receipt of a copy of this judgment.

ii) The tax liability, excluding the interest component shown in Ext.P6 against the petitioner, for the aforesaid assessment years, is stated to be Rs.23,25,638/-. After giving credit to the amount of Rs.10,00,000/- that was paid by the petitioner, pursuant to the interim order in the present writ petition, the balance amount towards tax would be Rs.13,25,638/-. The petitioner shall remit the said amount of Rs.13,25,638/- to the respondents on or before 15.12.2015.

iii) I make it clear that recovery steps for recovery of amounts demanded from the petitioner, both towards tax, as well as towards interest, shall be kept in abeyance for a period of two months. This, however, will be subject to the payment of tax directed to be made in this judgment, and if the petitioner does not comply with the direction to pay the tax amount on or before 15.12.2015, then it will be open to the respondents to proceed against the petitioner for realisation of the tax and interest amounts.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/