IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

WP(C).No. 26234 of 2015 (D)

PETITIONER :

THE GOVERNMENT SERVANTS
CO-OPERATIVE BANK LIMITED., NO.235,
REPRESENTED BY ITS SECRETARY MR.P.M.PRAVEEN,
AGED 55 YEARS, S/O.N.MADHAVAN, CHANDRAKANTHAM,
PATTANAKKAD.P.O., CHERTHALA,PIN-688 524.

BY ADVS.SRI.C.A.JOJO
SRI.JACOB CHACKO

RESPONDENT(S):
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1. THE INCOME TAX OFFICER,
   WARD NO.5, OFFICE OF THE INCOME TAX OFFICER WARD NO.5,
   DEVASWOM BUILDING ALAPPUZHA-688 011.

2. THE COMMISSIONER OF INCOME TAX (APPEALS),
   OFFICE OF THE COMMISSIONER OF INCOME TAX (APPEALS),
   1ST FLOOR, KOTTAYAM PUBLIC LIBRARY BUILDING,
   SASTHRI ROAD, KOTTAYAM-686 001

BY GOVERNMENT PLEADER SRI.P.M.SANEER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.26234/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE ASSESSMENT ORDER DATED 26/03/2015 ISSUED BY THE 1ST RESPONDENT.

P2 COPY OF THE APPEAL DATED 24/04/2015 BY THE PETITIONER BEFORE THE 2ND RESPONDENT

P3 COPY OF THE STAY PETITION DATED 24/04/2015 BY THE PETITIONER TO THE 2ND RESPONDENT

P4 COPY OF THE ORDER DATED 07/08/2015 ISSUED BY THE 2ND RESPONDENT

P5 COPY OF THE DEMAND LETTER ISSUED BY THE 1ST RESPONDENT DATED 21/08/2015

P6 COPY OF THE JUDGMENT IN WP(C).NO.10113 OF 2015 DATED 10/04/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26234 OF 2015

Dated this the 25th day of August, 2015

J U D G M E N T

Against Ext.P1 assessment order passed under the Income Tax Act, the petitioner has preferred Ext.P2 appeal before the 2nd respondent. In the writ petition, it is the specific case of the petitioner that although the petitioner had preferred a stay petition along with Ext.P2 appeal before the 2nd respondent, the 2nd respondent refused to consider the stay petition on merits stating that there was no provision under the Income Tax Act or rules which enabled the 2nd respondent to pass orders on the stay petition. It is under these circumstances that, left with no other remedy, the petitioner has approached this Court when confronted with Ext.P5 demand notice seeking recovery of the amounts confirmed against the petitioner by Ext.P1 assessment order.

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 dispose the writ petition with a direction to the 2nd respondent to consider and pass

orders on Ext.P2 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that, till such time as orders are passed by the 2nd respondent as directed and communicated to the petitioner, coercive steps pursuant to Ext.P5 demand notice for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns