

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 27904 of 2015 (K)

PETITIONER:

**T.MOIDEEN KUNHI, PROPRIETOR,
ANASWARA SILKS, NEAR BUS STAND,
KANHANGAD, KASARGODE - 671 121.**

**BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA**

RESPONDENT(S):

- 1. INCOME TAX OFFICER, WARD -1,
INCOME TAX DEPARTMENT,
KASARGODE - 671 121.**
- 2. COMMISSIONER OF INCOME TAX (APPEALS),
KOZHIKODE - 673 001.**
- 3. DEVADAS IRS,
COMMISSIONER OF INCOME TAX (APPEALS),
THRISSUR - 680001.**
- 4. PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX,
C.R.BUILDING, I.S.PRESS ROAD, ERNAKULAM,
KOCHI - 682 018.**

R1, R2 & R4 BY SRI.K.M.V.PANDALAI, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1- TRUE COPY OF THE ASSESSMENT ORDER OF THE AY- 2011-12 (INCOME TAX) DATED 24.3.2015.
- P2- TRUE COPY OF THE ASSESMENT ORDER FOR THE AY- 2012-13 (INCOME TAX) DATED 24.3.2015.
- P3- TRUE COPY OF THE APPEAL FILED BY TH PETITIONR BEFORE THE 2ND RESPONDENT FOR THE AY-2011-12 (INCOME TAX) DATED 30.3.2015.
- P3(A)- TRUE COPY OF THE STAY PETITON FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY - 2011-12 (INCOME TAX) DATED 30.3.2015.
- P4- TRUE COPY OF THE APPEAL FILED BY TH PETITIONR BEFORE THE 2ND RESPONDENT FOR THE AY-2012-13 (INCOME TAX) DATED 30.3.2015.
- P4(A)- TRUE COPY OF THE STAY PETITON FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY- 2012-13 (INCOME TAX) DATED 30.3.2015.
- P5- TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 18.6.2015.
- P6- TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C) 20883/2015 DATED 10.7.2015.
- P7- TRUE COPY OF THE HEARING NOTICE ISSUED BY THE OFFICE OF THE 2ND RESPONDENT DATED 7.9.2015.
- P8- TRUE COPY OF THE PROCEEDINGS OF SURVEY CONDUCTED UNDER SECTION 133 A OF THE INCOME TAX ACT DATED 27.11.2012.
- P9- TRUE COPY OF THE RELEVANT EXTRACT OF CBDT NOTIFICATION DATED 22.10.2014.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.27904 of 2015

Dated this the 9th day of October, 2015

JUDGMENT

Against Exts.P1 and P2 assessment orders under the Income Tax Act, the petitioner has preferred Exts.P3 and P4 appeals together with Exts.P3(a) and P4(a) stay petitions before the 2nd respondent. The apprehension of the petitioner is that even before the consideration of Exts.P3(a) and P4(a) stay petitions, the respondents are taking steps to recover the amounts confirmed against the petitioner by Exts.P1 and P2 assessment orders.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing 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 2nd respondent to consider and pass orders on Exts.P3(a) and P4(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. I make it clear that the recovery steps for recovery of amounts confirmed against the petitioner by Exts.P1 and P2 assessment orders, shall be kept in abeyance till such time as the 2nd

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respondent passes orders, as directed and communicates the same to the petitioner.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

rsr