

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).NO. 28375 OF 2015 (V)

PETITIONER(S) :

PARAVUR SERVICE CO-OP.BANK LTD.NO.1801,
REPRESENTED BY ITS SECRETARY, PARAVUR.P.O
KOLLAM DISTRICT-691301

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENT(S) :

1. THE INCOME TAX OFFICER, WARD-2,
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX,
KOLLAM RANGE, NEAR KARBALA JUNCTION
R.S.ROAD,KOLLAM DISTRICT-691001
2. THE COMMISSIONER OF INCOME TAX (APPEALS)
THIRUVANANTHAPURAM-695 003

BY SRI.K.M.V.PANDALAI, INCOME TAX DEPARTMENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: A TRUE COPY OF THE CERTIFICATE DATED 07.01.2015, ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOLLAM.

EXT.P2: A TRUE COPY OF THE RELEVANT PAGES OF THE BYELAWS OF THE PETITIONER SOCIETY

EXT.P3: A TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2012-2013 DATED 31.03.2015

EXT.P4: A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 31.03.2015

EXT.P5: A TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ALONG WITH COVERING LETTER DATED 04.04.2015

EXT.P6: A TRUE COPY OF THE STAY PETITION DATED 01.06.2015 FILED BY THE PETITIONER IN EXT.P5 APPEAL

EXT.P7: A TRUE COPY OF THE NOTICE NO.AAAAP1047R/W2/KLM/2015-16 DATED 24.08.2015 ISSUED BY THE 1ST RESPONDENT

EXT.P8: A TRUE COPY OF THE INTERIM ORDER DATED 30.09.2014 IN I.A.NO.2364/2014 IN ITA NO.188/2014

EXT.P9: A TRUE COPY OF THE JUDGMENT DATED 30.03.2015 IN WP(C) NO.10360 OF 2015

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.28375 of 2015

.....
Dated this the 18th day of September, 2015

J U D G M E N T

Against Ext.P3 assessment order under the Income Tax Act, the petitioner has preferred Ext.P5 appeal and Ext.P6 stay petition before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P3 assessment order.

2. I have heard the learned counsel for the petitioner and also 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 the following directions:

- i. The 2nd respondent shall consider and pass orders on Ext.P6 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of amounts confirmed against petitioner by Ext.P3 assessment order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

(iv) The petitioner shall produce a copy of the writ petition along with a copy of this judgment before the 2nd respondent for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

