IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 29397 of 2015 (Y)

PETITIONER:

KODUVAYOOR CO-OPERATIVE STORE LTD.F-1102,
KOODUVAYOOR P.O., CHITTOOR TALUK, PALAKKAD DISTRICT,
PIN 678 501, REPRESENTED BY ITS SECRETARY.

BY ADVS.SRI.M.M.MONAYE
SRI.M.PAUL VARGHESE

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. ASSISTANT DIRECTOR OF CO-OPERATIVE AUDIT,
OFFICE OF THE AUDIT JOINT/ASSISTANT DIRECTOR,
CHITTUR, PALAKKAD DISTRICT, PIN 678 101.

3. THE DISTRICT COLLECTOR
PALAKKAD DISTRICT, PALAKKAD P.O., PIN 678 001.

4. DEPUTY TAHSILDAR,
REVENUE RECOVERY, CHITTUR P.O., PALAKKAD DISTRICT,
PIN 678 101.

R BY SRI. K.C. VINCENT, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 29397 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1:TRUE COPY OF THE AUDIT CERTIFICATE DATED 29.9.2014.

EXHIBIT-P2: TRUE ENGLISH TRANSLATION OF EXT.P1.

EXHIBIT-P3: TRUE COPY OF THE NOTICE DATED 15.3.2015.

EXHIBIT-P4: TRUE ENGLISH TRANSLATION OF EXT.P3.

EXHIBIT-P5: TRUE COPY OF THE CHALAN DATED 30.3.2015 REMITTING THE AUDIT FEES.

EXHIBIT-P6: TRUE COPY OF THE DEMAND NOTICE DATED 27.07.2015.

EXHIBIT-P7: TRUE COPY OF THE REPRESENTATION ADDRESSED TO THE 2ND RESPONDENT.

EXHIBIT-P8: TRUE COPY OF THE REPRESENTATION ADDRESSED TO 3RD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 29397 of 2015 (Y)

Dated this the 7th day of October, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. The petitioner, a Co-operative Society, runs a provision store at Koduvayur as its main activity. The society is said to have suffered a huge loss in the recent times.

3. When the second respondent issued the statutory audit certificate under Rule 65 of the Kerala Co-operative Societies Rules, he charged a huge amount of ₹ 2,16,387/- as audit fee.

4. Despite the representation made by the petitioner, the second respondent, instead of reducing the audit fee, requested the third respondent, the Collector, to initiate revenue recovery proceedings. In turn, the 4th respondent, the authorized officer, issued a demand notice through Ext.P6 to the petitioner for the recovery of ₹ 1,83,317/-. Under these circumstances, the petitioner

is said to have submitted Ext.P7 representation to the second respondent to re-consider its decision regarding the levy of audit fee.

5. Questioning what is said to be the delay on the part of the second respondent in considering the petitioner's Ext.P7 representation, the petitioner has approached this Court.

6. The learned counsel for the petitioner, without adverting to the merits of the matter, has submitted that it will suffice if the second respondent considers the petitioner's Ext.P7 representation in accordance with law and passes appropriate orders thereon. He has, however, submitted that while the second respondent considers the petitioner's Ext.P7 representation, it is appropriate that the petitioner be given an opportunity of hearing.

7. The learned Government Pleader, on his part, has submitted that the second respondent has no objection to considering the petitioner's Ext.P7 representation on merits, after affording an opportunity of hearing to the petitioner.

in the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioner and the learned Government Pleader, this Court, without expressing any opinion on

the merits of the matter, disposes of the writ petition with a direction to the second respondent to consider the petitioner's Ext.P7 representation in accordance with law, after affording an opportunity of hearing to the petitioner, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within six weeks from the date of receipt of a copy of this judgment. In the meanwhile, the respondent authorities shall keep on hold their efforts to recover the said audit fee through the process of revenue recovery.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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