IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 31795 of 2015 (Y)

PETITIONER(S):

RAMAPURAM SERVICE CO-OPERATIVE BANK LTD,
RAMAPURAM P.O., MALAPPURAM DISTRICT-679 321.
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

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1. THE COMMISSIONER OF INCOME TAX (APPEALS),
AYAKAR BHAVAN, KOZHIKODE-673 001.

2. THE INCOME TAX OFFICER, WARD (4), TIRUR.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 31795 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF THE ASSESSMENT ORDER DATED 7.3.2015 ISSUED BY THE 2ND RESPONDENT.

P2: COPY OF THE APPEAL DATED 30.3.3015 FILED BEFORE THE 1ST RESPONDENT.

P3: COPY OF THE STAY PETITION DATED 8.4.2015 FILED BEFORE THE 1ST RESPONDENT.

P4: COPY OF THE STAY ORDER DATED 23.10.2014 ISSUED BY THIS HON'BLE COURT IN I.A.NO.2573 OF 2014 IN ITA NO.198 OF 2014.

P5: COPY OF THE ARGUMENT NOTE DTD 21.9.2015.

P6: COPY OF THE ORDER NO.ITA 20/TRR/CIT(A)/15-16 DATED 25.9.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.A. TO JUDGE.

das

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 31795 of 2015
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Dated this the 19th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P6 order passed by the 1st respondent, in an appeal preferred by the petitioner against an assessment order under the Income Tax Act. The case of the petitioner in the writ petition is essentially that, while passing Ext.P6 order, the 1st respondent did not exercise its discretion validly. It is submitted that the main issue involved in the appeal is also the subject matter of an ITA before this Court, in which this Court had granted a complete stay against recovery of amounts confirmed against the petitioner during the pendency of the appeal. The learned counsel for the petitioner would submit that the ITA has since been heard and it has been reserved for judgment. It is in the meanwhile, that Ext.P6 order has been passed in appeals preferred by the petitioner on the same issue.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in Ext.P6 order, the 1st respondent has directed the petitioner to deposit the entire amount confirmed against him by the assessment order, as a condition for hearing the appeal. Inasmuch as the issue involved in the appeal preferred by the petitioner is pending consideration before this Court in ITAs preferred by the petitioner and similarly situated persons and this Court has granted a complete stay against recovery, pending disposal of the Income Tax Appeal, I quash Ext.P6 order and direct the 1st respondent to consider and pass orders in Ext.P2 appeal preferred by the petitioner, within a period of three months, after hearing the petitioner. I make it clear that, pending disposal of the appeal, the recovery steps, if any, initiated against the petitioner for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order, shall be kept in abeyance.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /19.10.15