IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 31891 of 2015 (J)

PETITIONER(S):

MANAMPOOR SERVICE CO-OPERATIVE BANK LTD.NO. 2825,
REPRESENTED BY ITS SECRETARY,
MANAMBUR P.O., KALLAMABALAM,
THIRUVANANTHAPURAM DISTRICT - 695 611.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SRI.ARJUN RAGHAVAN
SRI.ADITHYA RAJEEV

RESPONDENT(S):
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1. **THE INCOME TAX OFFICER, WARD-2(5),**
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX,
RANGE-2, AAYAKAR BHAVAN, KOWDIAR,
THIRUVANANTHAPURAM DISTRICT - 695 003.

2. **THE COMMISSIONER OF INCOME TAX (APPEALS),**
THIRUVANANTHAPURAM - 695 003.

BY ADV. SRI.K.M.V.PANDALAI, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 31891 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: ATRUE COPY OF THE CERTIFICATE DTD.12.10.2015, ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), THIRUVANANTHAPURAM.

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

EXT.P3: ATRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2008-2009 DTD.22.3.2014.

EXT.P4: ATRUE COPY OF THE NOTICE ISSUED BY THE INCOME TAX OFFICER, WARD 2(3) DTD.22.3.22014.

EXT.P5: ATRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2013-14 DTD.31.8.2015.

EXT.P6: ATRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DTD.31.8.2015.

EXT.P7: ATRUE COPY OF THE APPEAL MEMORANDUM FILED AGAINST EXT.P3 ASSESSMENT ORDER ALONG WITH COVERING LETTER DTD.02-04-2014.

EXT.P7: ATRUE COPY OF THE APPEAL MEMORANDUM FILED AGAINST EXT.P5 ASSESSMENT ORDER ALONG WITH COVERING LETTER DTD.28.9.2015.

EXT.P9: ATRUE COPY OF THE NOTICE NO.AAAAM5969P/WARD 2(5)/TVM ISSUED BY THE 1ST RESPONDENT DTD.9.9.2015.

EXT.P10: A TRUE COPY OF THE STAY PETITION DTD.14.10.2015, FILED BY THE PETITIONER IN EXT.P7 APPEAL.

EXT.P11: A TRUE COPY OF STAY PETITION DTD.25.9.2015, FILED BY THE PETITIONER IN EXT.P8 APPEAL.

EXT.P12: A TRUE COPY OF THE INTERIM ORDER DTD.30.9.2014 IN IA.NO.2364/2014 IN ITA NO.188/2014.

EXT.P13: A TRUE COPY OF THE JUDGMENT DTD.30.3.2015 IN WP(C NO.10360 OF 2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.31891 of 2015

....

Dated this the 20th day of October, 2015

<u>J U D G M E N T</u>

Against Exts.P3 and P5 assessment orders under the Income Tax Act, the petitioner has preferred Exts.P7 and P8 appeals and Exts.P10 and P11 stay petitions 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 Exts.P3 and P5 assessment orders.

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 Exts.P10 and P11 stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.
>
> ii. Recovery steps for recovery of amounts confirmed against petitioner by Exts.P3 and

P5 assessment orders shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner. The petitioner shall produce a copy of the writ petition along with a copy of this judgment before the 2nd respondent for further action.

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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/20.10.15