

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 33207 of 2015 (A)

PETITIONER :

**SHRI.ABDULLA.C.,
OTTAMOCHIKKAL HOUSE,
POKKUNNU, GURUVAYURAPPAN COLLEGE.P.O.,
KOZHIKODE-673 014.**

**BY SRI.T.M.SREEDHARAN,SENIOR ADVOCATE
ADVS. SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENT(S):

- 1. THE INCOME TAX OFFICER,
WARD-2(3), KOZHIKODE-673 001**
- 2. THE COMMISSIONER OF INCOME TAX (APPEALS),
CALICUT RANGE, CALICUT-673 001**
- 3. THE TAX RECOVERY OFFICER, KOZHIKODE-673 001**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.33207/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER DATED 30/03/2014 ALONG WITH DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT**
- P2 COPY OF THE APPEAL MEMORANDUM DATED 30/04/2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**
- P2(A) COPY OF THE STAY PETITION DATED 16/10/2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**
- P3 COPY OF THE ENCUMBRANCE CERTIFICATE DATED 27/04/015 ISSUED BY THE CHEVAYOOR SUB REGISTRY OFFICE.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33207 OF 2015

Dated this the 2nd day of November, 2015

J U D G M E N T

Against Ext.P1 assessment order passed under the Income Tax Act, the petitioner preferred Ext.P2 appeal and P2(a) stay petition before the 2nd respondent. Ext.P3 is the copy of the encumbrance certificate showing that the property has already been attached. 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.P1 assessment order.

2. I have heard the learned counsel for the petitioner and 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.P2(a) stay petition within a period of three 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 the petitioner by Ext.P1 assessment order, including further steps pursuant to the attachment of the property of the petitioner, shall be kept in abeyance till such time as 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 advertent 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

