IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 33333 of 2015 (N)

PETITIONER(S):

PERINTHALMANNA SERVICE CO-OPERATIVE BANK LTD.,
HOSPITAL ROAD, PERINTHALMANNA,
MALAPPURAM DISTRICT, PIN - 679 322,
REPRESENTED BY ITS CHIEF EXECUTIVE.

BY ADVS.SRI.K.ANAND (SR.)
SMT.LATHA ANAND
SRI.M.N.RADHAKRISHNA MENON
SRI.JOSEPH SEBASTIAN (PARACKAL)

RESPONDENT(S):
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1. THE INCOME TAX OFFICER,
WARD 4, OFFICE OF THE ASSISTANT
COMMISSIONER OF INCOME TAX,
TARIFF BAZAR, TOWN HALL ROAD,
TIRUR - 676 101.

2. THE COMMISSIONER OF INCOME TAX (APPEALS),
AAYAKAR BHAVAN, MANANCHIRA, KOZHIKODE - 673 001.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 33333 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF ASSESSMENT ORDER FOR ASSESSMENT YEAR 2009-10.

EXT.P2: TRUE COPY OF ASSESSMENT ORDER FOR ASSESSMENT YEAR 2011-12.

EXT.P3: TRUE COPY OF ASSESSMENT ORDER FOR ASSESSMENT YEAR 2012-13.

EXT.P4: TRUE COPY OF THE APPEAL MEMORANDUM ALONG WITH THE APPLICATIONS FOR STAY FOR THE ASSESSMENT YEAR 2009-10.

EXT.P5: TRUE COPY OF THE APPEAL MEMORANDUM ALONG WITH THE APPLICATIONS FOR STAY FOR THE ASSESSMENT YEAR 2011-12.

EXT.P6: TRUE COPY OF THE APPEAL MEMORANDUM ALONG WITH THE APPLICATIONS FOR STAY FOR THE ASSESSMENT YEAR 2012-13.

EXT.P7; TRUE COPY OF COMMON ORDER DTD.22.9.2015.

EXT.P8: TRUE COPY OF THE ORDER PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, COCHIN.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33333 of 2015

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Dated this the 3rd day of November, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P8 order passed by the 2nd respondent, in stay applications preferred by the petitioner along with appeals filed against assessment orders under the Income Tax Act, where amounts were confirmed against the petitioner by disallowing deductions under Section 80 P of the Income Tax Act. In Ext.P8 stay order, the 2nd respondent has, after taking note of the fact that as against the confirmed demand of Rs.12,01,86,060/- relating to assessment years 2009-2010, 2011-2012 and 2012-2013, the petitioner had already paid an amount of Rs.1,09,86,061/-, directed the petitioner to pay a further amount of Rs.4,91,06,969/- in six equal monthly instalments with the first instalment of Rs.81,84,495/- to be paid on or before 15.10.2015. It is the submission of the learned Senior counsel for the petitioner that the petitioner has already complied with the requirement of paying Rs.81,84,495/- on or before 15.10.2015 pursuant to Ext.P8 order of the 2nd respondent. The prayer in the writ petition is essentially for a stay of the direction to remit the balance amounts in five equal monthly instalments in view of the fact that the income tax appeals, preferred by other assessees against orders of the appellate Tribunal confirming demands similar to what was confirmed against the petitioner, are pending consideration before this Court and in those appeals this Court has granted a stay of recovery of amounts pending disposal of the appeals.

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 and taking note of the fact that in identical matters this Court has granted a stay pending disposal of the income tax appeals, I modify the directions in Ext.P8 conditional order of stay granted by the 2nd respondent by making it clear that, insofar as the petitioner had already paid an amount of Rs.1,09,86,061/- and also the 1st instalment of Rs.81,84,495/- as mentioned in Ext.P8 order, the petitioner will not be required to make any further payment in the matter pending disposal of the appeal by the 2nd respondent. There will be a further direction to the 2nd respondent to consider and pass orders in the appeals within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner. The recovery steps for recovery of amounts from the petitioner pursuant to Ext.P1 to P3 assessment orders shall be kept in abeyance till such time as orders are passed by the 2nd respondent as directed and

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/03.11.15