IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 34232 of 2015 (D)

PETITIONER :

MANKADA SERVICE COOPERATIVE BANK LTD.,
MANKADA, PERINTHALMANNA, MALAPPURAM DISTRICT,
PIN-679 324, REPRESENTED BY ITS SECRETARY.

BY SRI.K.ANAND, SENIOR ADVOCATE
ADVS.SMT.LATHA ANAND
SRI.JOSEPH SEBASTIAN (PARACKAL)

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

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

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 34232 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE ASSESSMENT ORDER DATED 2.3.2015

P2 - TRUE COPY OF THE APPEAL MEMORANDUM

P3 - TRUE COPY OF THE APPLICATION FOR STAY

P4 - TRUE COPY OF THE ORDER DATED 22.09.2015 PASSED BY 2ND RESPONDENT

P5 - TRUE COPY OF THE ORDER PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, COCHIN DATED 14.5.2015

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.34232 of 2015

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Dated this the 13th day of November 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 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.P4 stay order, the 2nd respondent has passed a conditional order of stay requiring the petitioner to effect payments as a condition for grant of stay of recovery of the balance amounts confirmed against him. The learned counsel for the petitioner would submit that pursuant to Ext.P4 stay order, he has also paid the first instalment, directed therein. The prayer in the writ petition is essentially for a stay of the direction to remit the balance amount in 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.

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.P4 conditional order of stay granted by the 2^{nd} respondent by making it clear that, insofar as the petitioner had already paid the 1^{st} instalment mentioned in Ext.P4 order, the petitioner will not be required to make any further payment in the matter pending disposal of the appeal by the 2^{nd} respondent. There will be a further direction to the 2^{nd} 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 the assessment orders shall be kept in abeyance till such time as orders are passed by the 2^{nd} 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 2^{nd} respondent for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/