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. 34305 of 2015 (K)

PETITIONER:

THE KADANNAMANNA SERVICE CO-OPERATIVE
BANK LTD. NO. 10561, KADANNAMANNA P.O.,
MALAPPURAM DISTRICT- 679 324,
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, PIN- 676 101.

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

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

rs.

WP(C).No. 34305 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

P1:- COPY OF THE ASSESSMENT ORDER DTD. 02/03/2015 ISSUED BY THE 2ND RESPONDENT.

P2:- COPY OF THE APPEAL DTD. 30/03/2015 FILED BEFORE THE 1ST RESPONDENT.

P3:- COPY OF THE STAY PETITION DTD. 08/04/2015 FILED BEFORE THE 1ST RESPONDENT.

P4:- COPY OF THE STAY ORDER DTD. 23/08/2014 ISSUED BY THIS HON'BLE COURT IN IA NO. 2573/2014 IN ITA NO. 198/2014.

P5:- COPY OF THE ORDER DTD. 06/10/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 34305 of 2015

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Dated this the 13th day of November 2015

JUDGMENT

The challenge in the writ petition is against Ext.P5 order passed by the 1st respondent, in stay applications preferred by the petitioner along with an appeal 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.P5 stay order, the 1st respondent has granted a stay on condition that the petitioner remits 50% of the amount confirmed against him in the assessment order. The prayer in the writ petition is essentially for a stay of the direction to remit 50% of the amount confirmed against the petitioner in view of the fact that 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.P5 conditional order of stay granted by the 1st respondent by making it clear that the petitioner will not be required to make any payment in the matter pending disposal of the appeal by the 1st respondent. There will be a further direction to the 1st 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 1st 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 1st respondent for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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