IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 35535 of 2015 (N)

PETITIONER(S):

THE KIDANGOOR SERVICE CO-OPERATIVE BANK LTD.,
NO.3431, KIDANGOOR P.O., KIDANGOOR,
KOTTAYAM, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):
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1. THE COMMISSIONER OF INCOME TAX (APPEALS), AYAKAR BHAVAN, KOTTAYAM. 686 001.

2. THE INCOME TAX OFFICER, WARD 5, KOTTAYAM - 686 001.

BY SRI.JOSE JOSEPH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 35535 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1:	**COPY OF THE CERTIFICATE DATED 19.11.2014 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOTTAYAM.**
EXT.P-2:	**COPY OF THE ASSESSMENT ORDER DATED 19.3.2015 ISSUED BY THE 2ND RESPONDENT**
EXT.P-3:	**COPY OF THE APPEAL DATED 20.4.2015 FILED BEFORE THE IST RESPONDENT**
EXT.P-4:	**COPY OF STAY PETITION DATED 20.4.2015 FILED BEFORE THE IST RESPONDENT**
EXT.P-5:	**COPY OF STAY ORDER DATED 23.8.2014 ISSUED BY THIS HON'BLE COURT IN I.A.NO.2573 OF 2014 IN ITA NO.198 OF 2014**
EXT.P-6:	**COPY OF THE ORDER DATED 6.11.2015 ISSUED BY THE IST RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 35535 of 2015

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Dated this the 24th day of November 2015

JUDGMENT

Against Ext.P2 assessment order under the Income Tax Act, the petitioner had preferred Ext.P3 appeal together with Ext.P4 stay petition, before the 1st respondent. The 1st respondent considered Ext.P4 stay petition and by Ext.P6 order, directed the petitioner to pay 50% of the tax confirmed against him by Ext.P2 order, as a condition for grant of stay of recovery of balance amount, pending disposal of the appeal. In the writ petition, Ext.P6 order is challenged inter alia on the ground that the 1st respondent while passing the said order, did not exercise his discretion validly.

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 and the submissions made across the Bar, and taking note of the fact that income tax appeals preferred by assessees, against the tribunal order confirming a dis-allowance of the deduction claimed under Section 80 P of the Income Tax Act, are pending before this Court where this Court has granted a complete stay against the recovery of amounts pending disposal of the appeals, I quash Ext.P6

order and direct the 1st respondent to consider and pass orders on Ext.P3 appeal filed by the petitioner within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that till such time as orders are passed by the 1st respondent as directed, and communicated to the petitioner, recovery steps for recovery of amounts confirmed against the petitioner by Ext.P2 assessment order, shall be kept in abeyance.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/