IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 36177 of 2015 (V)

PETITIONER :

M/S.INDIA COFFEE BOARD WORKERS' CO OPERATIVE SOCIETY LTD.
MACHINGAL LANE, M.G.ROAD, P.B.NO.184, THRISSUR - 680 001,
REPRESENTED BY ITS PRESIDENT, SHRI.JOJI E.S.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENTS :
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1. THE INCOME TAX OFFICER, WARD - 2(2),
RANGE-2, THRISSUR-688 001.

2. THE COMMISSIONER OF INCOME TAX (APPEALS),
AAYAKAR BHAVAN, SHAKTHAN THAMPURAN NAGAR,
THRISSUR-680 001.

BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 36177 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE ASSESSMENT ORDER ALONG WITH DEMAND NOTICE DTD.18.3.2015 PASSED BY THE FIRST RESPONDENT.

P2 : COPY OF MEMORANDUM OF APPEAL DTD.4.4.2015.

P2(A): COPY OF STAY PETITION DTD.4.4.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P3 : COPY OF ORDER NO.ITA 12/TCR/CIT(A)/15-16 DTD.29.9.2015 ISSUED BY THE 2ND RESPONDENT.

P4 : COPY OF THE INTERIM ORDER DTD.13.10.2015 IN IA NO.930 OF 2015 IN ITA NO.86 OF 2015 OF THIS HON'BLE COURT.

P5 : COPY OF THE NOTICE NO.PA NO.AAAT10917L/ITO/W2(2)TSR DTD.23.11.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.36177 OF 2015

Dated this the 2nd day of December, 2015

J U D G M E N T

Against Ext.P1 assessment order passed under the Income Tax Act, the petitioner had preferred Ext.P2 appeal and Ext.P2(a) stay petition before the 2nd respondent appellate authority. The appellate authority, by Ext.P3 order, granted a conditional stay of recovery of amounts confirmed against the petitioner by Ext.P1 assessment order, on condition that the petitioner paid 1/3rd of the amount that was confirmed against him. In the writ petition, the petitioner is aggrieved by Ext.P3 order to the extent it imposes the said condition for the grant of stay of recovery of amounts confirmed against him by the assessment order. The petitioner places reliance in Ext.P4 interim order of a Division Bench of this Court, in an appeal preferred by the petitioner in relation to the assessment year 2008-2009, on the same issue, where this Court granted a complete stay of recovery of amounts confirmed against the petitioner by the assessment order pending disposal of the appeal. It is the case of the petitioner that a similar order ought to have been passed by the 2nd respondent in place of Ext.P3 order that was passed.

2. 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 and taking note of Ext.P4 interim order passed by a Division Bench of this Court in a pending I.T.A, I quash Ext.P3 order, to the extent it directs the petitioner to remit an amount of 1/3rd of the amounts confirmed against him by Ext.P1 assessment order, and direct the 2nd respondent to consider and pass orders on Ext.P2 appeal within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner. Coercive steps for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order shall be kept in abeyance till such time as orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/02.12.15