IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).NO. 39596 OF 2015 (Y)

PETITIONER(S):

THE CHIRAKKAL SERVICE CO-OPERATIVE BANK LTD
P.O.CHIRACKAL, KANNUR-KANNUR-670011
REPRESENTED BY ITS SECRETARY, CHANDRAN P.

BY ADVS.DR.K.P.PRADEEP
SRI.I.V.PRAMOD

RESPONDENT(S):

1. THE CENTRAL BOARD OF DIRECT TAXES
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE
GOVERNMENT OF INDIA, NORTH BLOCK
NEW DELHI- 110001, REPORESENTED BY ITS CHAIRMAN

2. INCOME TAX OFFICER, WARD 1., KANNUR
AAYAKKAR BHAVAN, KANNOTHUMCHAL
CHOVVA, KANNUR-670006

3. COMMISSIONER OF INCOME TAX (APPEALS)
KOZHIKODE, AAYAKAR BHAVAN
REVENUE BUILDING, MANANCHIRA, KOZHIKODE- 680008

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 39596 OF 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE CERTIFICATE NO.8671/2011/0 DATED 16.12.2011 ISSUED BY THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KANNUR TO THE PETITIONER.

EXT.P2: TRUE COPY OF THE ASSESSMENT ORDER NO.AAAACO458M DATED 25-2-2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE ASSESSMENT YEAR 2011-12

EXT.P2(A): TRUE COPY OF THE ASSESSMENT ORDER NO.AAAACO458M DATED 28-2-2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE ASSESSMENT YEAR 2011-12

EXT.P3: TRUE COPY OF THE APPEAL DATED 24.03.2014 FILED BEFORE THE 3RD RESPONDENT FOR THE YEAR 2011-12 AGAINST EXT.P2 ASSESSMENT ORDER

EXT.P3(A): TRUE COPY OF THE APPEAL DATED 13.12.2014 FILED BEFORE THE 3RD RESPONDENT FOR THE YEAR 2012-13 AGAINST EXT.P2 (A) ASSESSMENT ORDER

EXT.P4: TRUE COPY OF THE STAY APPLICATION DATED 2.6.2014 IN EXT.P3 APPEAL FILED BEFORE THE 3RD RESPONDENT BY THE PETITIONER

EXT.P4(A): TRUE COPY OF THE STAY APPLICATION DATED 23.12.2014 IN EXT.P3(A) APPEAL FILED BEFORE THE 3RD RESPONDENT BY THE PETITIONER

EXT.P5: TRUE COPY OF THE DEMAND NOTICE IN PAN AAAACO458M DATED 25-2-2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER

EXT.P5(A): TRUE COPY OF THE DEMAND NOTICE IN PAN AAAACO458M DATED 28-11-2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER

EXT.P6: TRUE COPY OF THE ORDER DATED 7.10.2015 ISSUED BY THE 3RD RESPONDENT IN EXT.P4 AND P4 (A) STAY APPLICATIONS

EXT.P7: TRUE COPY OF THE ORDER DATED 3.12.2013 IN IA NO.1890/2013 IN ITA NO.212 OF 2012 OF THIS HON'BLE COURT

EXT.P8: TRUE COPY OF THE TAX PAYER COUNTERFOIL IN PAN AAAACO458M DATED 8-12-2015 FOR THE YEAR 2011-12

EXT.P8(A): TRUE COPY OF THE TAX PAYER COUNTERFOIL IN PAN AAAACO458M DATED 8-12-2015 FOR THE YEAR 2011-13

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.39596 of 2015

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Dated this the 23rd day of December, 2015

<u>J U D G M E N T</u>

The challenge in the writ petition is against Ext.P6 conditional order of stay passed by the 3rd respondent in an appeal preferred by the petitioner against an order of assessment for the assessment year 2012-13. It is the submission of counsel for the petitioner that the issue pertains to the eligibility of the petitioner for the benefit of Section 80(P) of the Income Tax Act, and the issue is pending consideration before a Division Bench of this Court in an IT Appeal, where a stay against recovery of amounts confirmed by the assessment order has been granted.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing 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 the issue involved in the appeal preferred by the petitioner before the 3rd respondent is pending consideration before the Division Bench of this Court, I quash Ext.P6 order and direct the 3rd respondent to consider and pass orders on Ext.P3 series of appeals preferred by the petitioner, within a period of three months from the date of receipt of a copy of this judgment. I make it clear that till such time as orders are passed by the 3rd respondent as directed, and communicated to the petitioner, recovery steps for recovery of amounts confirmed against the petitioner by Ext.P2 series of assessment orders shall be kept in abeyance. The petitioner shall produce a copy of the writ petition together with a copy of this judgment before the 3rd respondent for further action.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/23.12.15