IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 5TH DAY OF AUGUST 2024 / 14TH SRAVANA, 1946

WP(C) NO. 15036 OF 2024

PETITIONER:

KOSAMATTAM FINANCE LTD.,
KOSAMATTAM CITY CENTRE, FLOOR NUMBER 4TH & 5TH,
T.B ROAD, KOTTAYAM - 686001, KERALA, INDIA,
REPRESENTED BY ITS MANAGING DIRECTOR, MATHEW K CHERIAN,
AGED 66 YEARS, S/O. LATE CHERIAN, KOSAMATTAM HOUSE,
MANGANAM P.O., KOTTAYAM, PIN – 686 001.

BY ADVS.
JOLLY JOHN
LIZA MEGHAN CYRIAC
IRENE BABU
HARIKRISHNA S.

RESPONDENTS:

1 **UNION OF INDIA,**
MINISTRY OF FINANCE DEPARTMENT OF EXPENDITURE,
ROOM NO. 76, NEW DELHI, REPRESENTED BY THE SECRETARY,
PIN – 110 001.

2 **OFFICE OF THE COMMISSIONER OF INCOME TAX,**
APPEALS, ERNAKULAM, KERALA, PIN – 682 036.

3 **OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX,**
CENTRAL CIRCLE KOTTAYAM, PUBLIC LIBRARY BUILDING,
SASTRI ROAD, KOTTAYAM, KERALA, PIN – 686 001.

BY ADVS.
SUSIE 8 VARGHESE (SR.SC)
NAVNEETH N. NATH.(JR.SC)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a public limited company. Based on a search conducted by the end of the financial year 2018, certain assessments were completed for the years 2012-2013, 2015-2016 and 2016-2017, resulting in some demands. For the rest of the years which were forming part of the block assessment, there were refunds due to the petitioner.

2. According to the petitioner, the refunds due to the petitioner were adjusted against the demands of one particular year, as a result of which in the appeals filed by the petitioner in respect of other years (in which there were demands against the petitioner) the petitioner would be called upon to deposit 20% of the demand in terms of the instructions issued by the Central Board of Direct Taxes, as a condition for stay.

3. The Senior Standing Counsel appearing for the respondent department would submit that it is true that

the refunds due to the petitioner have been adjusted against the demands for one particular year and the records do not indicate that a notice under Section 245(1) of the Income Tax Act, 1961, had been issued before such an adjustment.

4. Taking into consideration the submissions made by the learned counsel for the petitioner and the learned Senior Standing Counsel appearing for the respondents, and having regard to the facts and circumstances of this case, I am of the view that interest of justice will be met if this writ petition is disposed of directing the First Appellate Authority to consider and pass orders on the appeals filed by the petitioner against orders of assessment for the years 2012-13, 2015-16 and 2016-17 on merits. Since substantial refunds due to the petitioner have been adjusted against the demands for one of these years, I am of the opinion that further recovery proceedings against the petitioner arising out of assessment orders issued for the years 2012-13, 2015-16 and 2016-17 can remain

stayed until the disposal of the appeals filed by the petitioner. The First Appellate Authority will endeavor to dispose of the statutory appeals filed by the petitioner for the years 2012-13, 2015-16 and 2016-17 within a period of three months from the date of receipt of a certified copy of this judgment.

Writ petition will stand ordered accordingly.

Sd/-
GOPINATH P.
JUDGE

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APPENDIX OF WP(C) 15036/2024

PETITIONER'S EXHIBITS

Exhibit P1	**TRUE COPY OF THE WRITTEN SUBMISSION BY THE PETITIONER DATED 30.8.2022 SUBMITTED BEFORE THE 3RD RESPONDENT.**
Exhibit P2	**TRUE COPY OF THE REMAND REPORT DATED 14/05/2019 ISSUED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT UPON THE REDUCED DEMAND FOR THE AY 2012-2013.**
Exhibit P3	**TRUE COPY OF THE DEMAND NOTICE DATED 2/4/2024 ISSUED BY THE 3RD RESPONDENT.**