2023:KER:77206

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 5TH DAY OF DECEMBER 2023/14TH AGRAHAYANA, 1945

WA NO. 2032 OF 2023

AGAINST THE JUDGMENT WP(C) 32712/2023 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

PULIYAMMAKKAL MATHAI SEBASTIAN
AGED 66 YEARS
PULIYAMMAKKAL HOUSE, CHEERAL P.O., SULTHAN BATHERY
VIA, WAYANAD DISTRICT, PIN - 673592

BY ADV S.ANANTHAKRISHNAN

RESPONDENTS/RESPONDENT:

1 INCOME TAX OFFICER
AYAKAR BHAVAN, KALPETTA, PIN - 673122

2 THE ASSESSMENT UNIT, INCOME TAX DEPARTMENT
REPRESENTED BY INCOME TAX OFFICER , AYAKAR BHAVAN,
KALPETTA, PIN - 673122

3 THE COMMISSIONER OF INCOME TAX (APPEALS)
AYAKAR BHAVAN, KOZHIKODE DISTRICT, PIN - 673001

4 NATIONAL FACELESS APPEAL CENTRE
C BLOCK, SPM CIVIC CENTRE, NEW DELHI - 110001,
REPRESENTED BY PRINCIPAL CHIEF COMMISSIONER OF
INCOME TAX (NFAC), PIN - 110001

SC: ADV CHRISTOPHER ABRAHAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05.12.2023, ALONG WITH WA NO.2033/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 5TH DAY OF DECEMBER 2023/14TH AGRAHAYANA, 1945

WA NO. 2033 OF 2023

AGAINST THE JUDGMENT WP(C) 33743/2023 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

PUNATHIL NISHRIYA
AGED 45 YEARS
D/O PUNATHIL MUHAMMED, HANAWHEELS, NEAR AYYAPPA TEMPLE, KALPETTA WAYANAD KERALA, PIN - 673121

BY ADV S.ANANTHAKRISHNAN

RESPONDENTS/RESPONDENT:

1. INCOME TAX OFFICER
WARD NO.1, KALPETTA, PIN - 673122

2. COMMISSIONER OF INCOME TAX (APPEALS)
AYAKAR BHAVAN, KOZHIKODE DISTRICT, PIN - 673001

3. NATIONAL FACELESS APPEALS CENTRE
REPRESENTED BY PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX(NFAC), C-BLOCK, SPM CIVIC CENTRE, NEW DELHI, PIN - 110001

OTHER PRESENT:

SC: ADV CHRISTOPHER ABRAHAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05.12.2023, ALONG WITH WA NO.2032/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Dr. Kauser Edappagath, J.

In these writ appeals, the appellants are aggrieved by the identical orders passed by the 1st respondent to remit 20% of the demand as a condition for treating them as persons not in default.

2. Both the appellants are assessees under the Income Tax Act, 1961 (for short, the IT Act). Aggrieved by the assessment order, the appellants preferred statutory appeals before the Commissioner of Income Tax (Appeals). The appellants also moved an application u/s 220(6) of the IT Act before the 1st respondent. In response to the said application, the 1st respondent asked the appellants to remit 20% of the demand as a condition for treating them as persons not in default. The appellants filed writ petitions challenging the said condition

imposed. After hearing both sides, the learned Single Judge dismissed the writ petitions. The appellants are before us challenging the judgments in the writ petitions.

3. We have heard Sri.S. Ananthakrishnan, the learned counsel for the appellants and Sri.Christopher Abraham, the learned standing counsel for the income tax department.

As stated already, the appeals preferred by the appellants against the assessment orders are pending before the Appellate Authority/the Commissioner of Income Tax (Appeals). The appellants can very well move stay applications before the Appellate Authority. It appears that the appellants have moved no such stay applications. The learned Single Judge has granted one week's time to the appellants to file the stay applications. We see no illegality in the impugned judgments. Hence, we dismiss the writ appeals. However, if the appellants prefer stay applications before the Commissioner of Income Tax (Appeals) within one week from today, he shall consider and dispose of either the stay applications or the appeals itself within a period of three weeks after the receipt of the stay applications after hearing both sides.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

Rp