



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 12TH DAY OF OCTOBER 2023 / 20TH ASWINA, 1945

WP(C) NO. 33625 OF 2023

PETITIONER:

ESATTO BUILDERS PRIVATE LIMITED
28/229-A5,229 A6 JP COMPLEX, NEAR CIVIL STATION, QUILANDY
KOZHIKKODE, KERALA, REPRESENTED BY AUTHORISED SIGNATORY
DIJIN T.V, PIN – 673 305.
BY ADV JESTIN MATHEW

RESPONDENTS:

- 1 INCOME TAX APPELLATE TRIBUNAL
KOCHI, 1ST FLOOR, BLOCK C-1 AND C-LL, KENDRIYA BHAVAN,
KAKKANAD, KERALA,, PIN – 682 030.
- 2 NATIONAL FACELESS ASSESSMENT CENTRE (NFAC)
INCOME TAX DEPARTMENT, MINISTRY OF FINANCE, INSIDE
JAWAHARLAL NEHRU STADIUM, NEW DELHI,, PIN – 110 001.
- 3 ASSISTANT COMMISSIONER OF INCOME TAX
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
CIRCLE 2(1), KOZHIKKODE, PIN – 673 001.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12.10.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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DINESH KUMAR SINGH, J.

W.P.(C). No. 33625 of 2023

Dated this the 12th day of October, 2023.

JUDGMENT

The present writ petition has been filed by the petitioner seeking a direction to the first respondent i.e., the Income Tax Appellate Tribunal, Kochi to consider Exhibit P4 appeal, ITA No. 559/2023, and Exhibit P5 stay petition and pass appropriate orders in accordance with law, after affording an opportunity of hearing to the petitioner.

2. The assessment under Section 143(3) of the Income Tax Act, 1961 ('Act, 1961' for short) for the assessment year 2012-2013 was finalised vide Exhibit P1 assessment order dated 30.03.2015. The total income of the petitioner for the purpose of assessment was finalised at Rs.1,88,38,176/- and Exhibit P2 notice was issued to the petitioner demanding tax amount of Rs.82,93,890/-.

3. Aggrieved by the same, the petitioner has filed an appeal under Section 250 of the Act, 1961 before the National Faceless Assessment Centre, respondent No.2. The appellate authority, vide Exhibit P3 order dated 15.05.2023, dismissed the appeal holding that the petitioner failed to substantiate its claim and confirmed the additions made to the returned income by the assessing authority.



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Impugning the said order passed by the first appellate authority, the petitioner has filed Exhibit P4 appeal before the Income Tax Appellate Tribunal, Kochi.

4. Admittedly, the petitioner has not made the required pre deposit of the assessed tax for entertaining the application for stay. The learned counsel for the petitioner submits that the petitioner will deposit the required pre deposit of tax within a period of 10 days from today.

5. Considering the said submission, the present writ petition is disposed of, with liberty to the petitioner to make deposit of the required pre deposit of the assessed tax within ten days from today. If the petitioner makes the payment as directed above, Exhibit P5 application for stay filed by the petitioner along with Exhibit P4 appeal shall be heard and decided on merits expeditiously, after giving an opportunity of hearing to the petitioner. For a period of 15 days, no coercive steps shall be taken against the petitioner pursuant to Exhibit P1 assessment order.

Writ petition stands finally disposed of.

sd/-
DINESH KUMAR SINGH,
JUDGE.

Rv



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APPENDIX OF WP(C) 33625/2023

PETITIONER'S EXHIBITS:

- | | |
|------------|---|
| Exhibit P1 | A TRUE COPY OF THE ASSESSMENT ORDER DATED 30.03.2015 ISSUED BY THE 3RD RESPONDENT |
| Exhibit P2 | A TRUE COPY OF THE NOTICE OF DEMAND DATED 30.03.2015 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT |
| Exhibit P3 | A TRUE COPY OF THE ORDER DATED 15.05.2023 PASSED BY THE 2ND RESPONDENT NATIONAL FACELESS APPEAL CENTER |
| Exhibit P4 | A TRUE COPY OF THE INCOME TAX APPEAL NO.559/2023 ALONG WITH FORM 36 APPEAL, STATEMENT OF FACTS AND GROUNDS OF APPEAL DATED 13.07.2023 FILED BY THE PETITIONER WITHOUT ANNEXURES BEFORE THE 1ST RESPONDENT |
| Exhibit P5 | A TRUE COPY OF THE APPLICATION FOR STAY DATED 13.07.2023 IN ITA 559/2023 |

RESPONDENTS' EXHIBITS: NIL

True Copy

PS To Judge.

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