2023:KER:56996

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 25TH DAY OF SEPTEMBER 2023 / 3RD ASWINA, 1945

WP(C) NO. 31161 OF 2023

PETITIONER/S:

ERAMALOOR SERVICE CO-OPERATIVE BANK LTD NO.1175, ERAMALOOR, P.O CHERTALA, ALAPPUZHA REPRESENTED BY ITS SECRETARY-IN-CHARGE, PIN - 688537

BY ADVS. DIVYA RAVINDRAN
C.A.JOJO

RESPONDENT/S:

1 INCOME TAX OFFICERWARD-1 & TPS, ARATTUKULANGARA COMPLEX, A.N PURAM ALAPPUZHA, PIN - 688001

2 INCOME TAX OFFICERNATIONAL FACELESS ASSESSMENT CENTRE, NORTH BLOCK, NEW DELHI, PIN - 110001

3 THE COMMISSIONER OF INCOME TAX (APPEALS), NATIONAL FACELESS ASSESSMENT CENTRE, NORTH BLOCK, NEW DELHI ., PIN - 110001

OTHER PRESENT:

JOSE JOSEPH-SC-IT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Heard Mr C A Jojo learned Counsel for the petitioner, and Mr Jose Joseph learned Standing Counsel for the Income Tax Department.

2. The petitioner claims to be a Co-operative Society engaged in providing credit facilities to its members. The petitioner/Society is registered under the provisions of the Kerala Co-operative Societies Act 1969.

3. The petitioner/Society did not file the return of its income for the Assessment Year 2017-18. The petitioner was issued a show cause notice under Section 142 (1) and (2) of the Income Tax Act 1961. The petitioner ignored the said show cause notice. Thereafter, the notice under Section 147 was issued and the Assessment Order dated 11.12.2019 under the provisions of Section 144 of the Income Tax Act was finalised. The Assessing Authority assessed the tax at Rs.10,47,388/-.

The petitioner filed an appeal against the Assessment Order before the 3rd respondent in Ext.P3 along with a Stay Application (Ext.P4).

4. The learned Counsel for the petitioner submits that the stay application and the appeal have not been considered, and the petitioner is facing recovery proceedings in respect of the assessed tax.

5. Considering the aforesaid facts, the Commissioner of Income Tax (Appeals)/3rd respondent is directed to take up the appeal filed by the petitioner expeditiously and decide the same within a period of three months. However, if it is not possible to decide the appeal within the period of three months, at least the stay application of the petitioner should be decided in accordance with the law within the said period of three months. For a period of three months, Revenue Recovery proceedings (Ext.P5) shall be kept in abeyance.

With the aforesaid directions, the present writ petition stands finally disposed of.

Sd/-

DINESH KUMAR SINGH

JUDGE

jjj

APPENDIX OF WP(C) 31161/2023

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE ASSESSMENT ORDER FOR AY 2017-18 DATED 11.12.2019 ISSUED BY THE 1ST RESPONDENT
Exhibit P2	A TRUE COPY OF THE DEMAND NOTICE FOR AN AMOUNT OF RS. 10,47,388/- U/S 156 DATED 11.12.2019 ISSUED BY THE 1 ST RESPONDENT
Exhibit P3	A TRUE COPY OF THE APPEAL FOR AY 2017-18 BEFORE THE 3RD RESPONDENT DATED 13.01.2020
Exhibit P4	A TRUE COPY OF THE STAY PETITION FOR AY 2017-18 BEFORE THE 3RD RESPONDENT DATED 19.09.2023
Exhibit P5	THE TRUE COPY OF THE RECOVERY NOTICE ISSUED BY THE 1ST RESPONDENT DATED 05.07.2023
Exhibit P6	THE TRUE COPY OF THE JUDGMENT RENDERED BY THIS HON'BLE COURT IN W.A NO. 1535/2019 DATED 1.07.2019