IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 11TH DAY OF APRIL 2024 / 22ND CHAITHRA, 1946

WP(C) NO. 42345 OF 2023

PETITIONER:

DIANA PETER ALIAS DIANA GOMEZ
AGED 64 YEARS
W/O PETER PEREIRA, AGED 64 YEARS RESIDING AT JULIE LAND, MUDIYAKODE, CHERUNNIYOOR VARKALA, THIRUVANANTHAPURAM ,695142, PIN - 695142

BY ADVS.
S.GOKUL BABU
KESHAVRAJ NAIR
M.ANIL PRASAD
PARVATHY NAIR
GAADHA SURESH
ARUN M.V.
VISWANATH JAYAN

RESPONDENTS:

1 COMMISSIONER OF INCOME TAX (APPEALS)
AAYKAR BHAWAN, 1ST FLOOR, KAWDIAR PO
THIRUVANANTHAPURAM, KERALA, 695003, PIN - 695003

2 ASSESSMENT OFFICER
OFFICE OF THE INCOME TAX OFFICER WARD 1(1), AAYKAR BHAWAN, KOWDIAR, P.O THIRUVANANTHAPURAM, KERALA, 695003, PIN - 695003

BY ADV KEERTHIVAS GIRI

SRI. P.G. JAYASHANKAR-SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 11th day of April, 2024

The present writ petition has been filed seeking the following reliefs:

> *i) Issue a writ in the nature of Certiorari or such other writ, direction, or order, calling for records leading to Exhibit P3 demand notice issued by the 2nd respondent and quash the same.*
>
> *ii) Issue a writ of mandamus or such other writ, order, or direction, directing the 2nd respondent to not proceed with any coercive steps for recovery, till the disposal of Ext.p2 appeal or Ext.P2(a) stay petition pending before the 1st respondent.*
>
> *iii) grant such other and incidental reliefs as this Hon'ble Court may deem just and necessary on the facts and circumstances of this case.*
>
> *iv) Pass such other writs, order or direction as this Hon'ble Court may deem fit and proper in the factual circumstances of this case.*

2. The petitioner has filed an appeal along with stay application and application for condonation of delay against Ext.P1 assessment order dated 14.03.2022 passed under Section 147 read with Section 144 and 144B of the Income Tax Act.

3. Sri.P.G Jayasankar, learned Senior Standing Counsel for the Income Tax Department submits that the delay is huge

in filing the appeal. The petitioner has filed the appeal with delay of 150 days.

4. Considering the fact that the appeal has been filed along with the stay application and the application for condoning the delay of 150 days, the 1st respondent is directed to consider and pass necessary orders on application for condoning the delay as well as stay application expeditiously, preferably with in a period of two months. The demand in pursuance to Ext.P1 order shall remain stayed till the decision on application for condonation of delay and stay petition subject to making deposit of 15% of the total demand as per Ext.P1 assessment order. The petitioner is directed to remit 15% of the total demand as per Ext.P1 assessment order within a period of one week from today.

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

Sd/-

DINESH KUMAR SINGH

JUDGE

AP

APPENDIX OF WP(C) 42345/2023

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE ASSESSMENT ORDER DATED 14.03.2022 FOR THE ASSESSMENT YEAR 2016-17 ISSUED BY THE INCOME TAX DEPARTMENT, NATIONAL FACELESS ASSESSMENT CENTRE DELHI, RESPONDENT ON THE PETITIONER**
Exhibit P2	**A TRUE COPY OF THE ACKNOWLEDGEMENT RECEIPT OF APPEAL BEARING E-FILING ACKNOWLEDGEMENT NUMBER 494450350150922 DATED 15.09.22 ISSUED BY THE INCOME TAX DEPARTMENT**
Exhibit P2(a)	**A TRUE COPY OF THE ACKNOWLEDGEMENT RECEIPT FOR THE STAY PETITION BEARING E-FILING ACKNOWLEDGEMENT NUMBER 186949031150823 DATED 12.08.2023**
Exhibit P3	**A TRUE COPY OF THE DEMAND NOTICE NO. ITBA/COM/F/17/2023-24/1056866826(1) DATED 07.10.2023**