



2024:KER:17006

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 4TH DAY OF MARCH 2024 / 14TH PHALGUNA, 1945

WP(C) NO. 5448 OF 2024

PETITIONER/S:

CHERIAN KOSHY,
AGED 74 YEARS
KOCHUMELATHIL HOUSE, POOMALA P O, SULTHAN BATHERY,
WAYANAD, PIN - 673592

BY ADV S.ARUN RAJ

RESPONDENT/S:

- 1 ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF
INCOME TAX/INCOME TAX OFFICER,
NATIONAL FACELESS ASSESSMENT CENTRE, INCOME TAX
DEPARTMENT, 2ND FLOOR, E- RAMP, JAWAHARLAL NEHRU
STADIUM, NEW DELHI, PIN - 110003
- 2 INCOME TAX OFFICER,
WARD-24 1 (4), 6TH FLOOR, PIRAMAL CHAMBER, LAL BAUG,
PAREL, MUMBAI, PIN - 400012
- 3 INCOME TAX OFFICER,
WARD-1, KALPETTA, INCOME TAX OFFICE, SULTHAN BATHERY
ROAD, KALPETTA, WAYANAD, PIN - 673122
- 4 COMMISSIONER OF INCOME TAX (APPEALS),
NATIONAL FACELESS APPEAL CENTRE, INCOME TAX DEPARTMENT,
2ND FLOOR, E- RAMP, JAWAHARLAL NEHRU STADIUM, NEW
DELHI, PIN - 110003
- 5 THE PRINCIPAL COMMISSIONER OF INCOME TAX,
AAYAKAR BHAVAN, NORTH BLOCK, MANANCHIRA, KOZHIKODE, PIN
- 673001

BY ADVS.
CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT
P.R.AJITH KUMAR
SRI. JOSE JOSEPH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**J U D G M E N T**

The petitioner has approached this court seeking a limited relief. The petitioner suffered Exts.P1 and P2 order of assessment and penalty under the provisions of the Income Tax Act, 1961. The petitioner has preferred Exts.P3 and P4 appeals along with Exts.P5 and P6 stay petitions. The only relief sought for by the petitioner is that the demands in Exts.P1 and P2 may not be enforced till a decision is taken on Exts.P5 and P6 stay petitions filed in Exts.P3 and P4 appeals pending before the 4th respondent.

2. Having heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondent Department, this writ petition will stand disposed of directing that till a decision is taken on Exts.P5 and P6 stay petitions pending before the 4th respondent in Exts.P3 and P4 appeals, the demands in Exts.P1 and P2 shall not be enforced. The 4th respondent shall endeavour to pass orders on Exts.P5 and P6 within a period of two months from the date of receipt of a certified copy of this judgment.

Sd/-
GOPINATH P.
JUDGE

AMG

APPENDIX OF WP (C) 5448/2024**PETITIONER EXHIBITS**

- Exhibit P1** A TRUE COPY OF THE ASSESSMENT ORDER DATED 24-12-2019 UNDER SECTION 144 R.W.S 147 OF THE ACT FOR THE AY 2012-13 ALONG WITH THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT
- Exhibit P2** A TRUE COPY OF THE PENALTY ORDER DATED 22-10-2021 PASSED UNDER SECTION 271 (1) (C) OF THE ACT BY THE 1ST RESPONDENT FOR THE AY 2012-13
- Exhibit P3** A TRUE COPY OF THE FIRST APPEAL E-FILED ON 13-12-2022 BY THE PETITIONER BEFORE THE 4TH RESPONDENT FOR THE AY 2012-13 CHALLENGING EXHIBIT P-1 ASSESSMENT ORDER
- Exhibit P4** A TRUE COPY OF THE FIRST APPEAL E-FILED ON 7-3-2023 BY THE PETITIONER BEFORE THE 4TH RESPONDENT FOR THE AY 2012-13 ALONG WITH THE DELAY APPLICATION CHALLENGING EXHIBIT P-2 PENALTY ORDER
- Exhibit P5** A TRUE COPY OF THE STAY PETITION FOR THE AY 2012-13 E-FILED ON 17-5-2023 BEFORE THE 4TH RESPONDENT:- CIT (APPEALS), NATIONAL FACELESS APPEAL CENTRE, DELHI SEEKING STAY OF RECOVERY BASED ON EXHIBIT P-1 ASSESSMENT ORDER
- Exhibit P6** A TRUE COPY OF THE STAY PETITION FOR THE AY 2020-21 E-FILED ON 17-5-2023 BEFORE THE 4TH RESPONDENT:- CIT (APPEALS), NATIONAL FACELESS APPEAL CENTRE, DELHI SEEKING STAY OF RECOVERY BASED ON EXHIBIT P-2 PENALTY ORDER
- Exhibit P7** A TRUE COPY OF THE SCREEN SHOT TAKEN FROM THE ACCOUNT OF THE PETITIONER IN THE INCOME TAX WEB PORTAL
- Exhibit P8** A TRUE COPY OF THE NOTICE DATED 25-10-2022 ISSUED BY THE 3RD RESPONDENT FOR THE AY 2012-13