2024:KER:8097

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 2ND DAY OF FEBRUARY 2024 / 13TH MAGHA, 1945

W.P.(C) NO.3107 OF 2024

PETITIONER:

PORKULAM SERVICE CO-OPERATIVE BANK LIMITED,
REPRESENTED BY SECRETARY,
VIII/109, VIA PAZHANJI TALAPPILY,
THRISSUR, KERALA, INDIA, PIN-680 542.

BY ADVS.
ANIL D. NAIR
TELMA RAJU

RESPONDENT:

PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX,
OFFICE OF THE DEPUTY COMMISSIONER OF INCOME TAX,
AAYAKAR BHAVAN, OLD RAILWAY STATION ROAD,
ERNAKULAM DISTRICT, KOCHI, KERALA, PIN-682 018.

ADV.CYRIAC TOM, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

Dated this the 2nd day of February, 2024

The petitioner claims to be a Primary Agricultural Credit Society registered under the provisions of the Kerala Co-operative Societies Act, 1969. The petitioner also claims that the petitioner is engaged in the business of banking and providing credit facilities only to its members.

2. The petitioner filed return on 08.03.2019 to the last date for filing the return was 28.02.2019. Thus, there was a delay of 7 days in filing the return. The petitioner moved an application under Section 119(2)(b) of the Income Tax Act for condoning the delay in filing the return. On the said application, notice was issued to the petitioner on 27.10.2023 intimating the petitioner that the hearing on the application was fixed before the Joint Commissioner of Income Tax (Hqrs./Tech), Office of the Deputy Commissioner of Income Tax, Kerala on

07.11.2023 at 11.30 a.m. The petitioner was directed to appear either in person or through an authorised representative. The petitioner was given a liberty to file written submission which was to be taken into consideration before deciding upon the application for condoning the delay of 7 days in filing the return. The petitioner filed written submission on 03.11.2023. The impugned order has been passed without taking note of the fact that the petitioner had submitted written submission. The order shows that neither the petitioner appeared in person nor submitted the written submission. Prima facie, the said finding is incorrect on the basis of the report.

3. In view thereof, the impugned order is set aside, the matter is remitted back to the Principal Chief Commissioner of Income Tax, Kerala to pass a fresh order. The petitioner is given liberty to file fresh written submission before the Principal Chief Commissioner of Income Tax, Kerala within one week from today. The petitioner may be served notice of hearing, and after

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considering the submission of the petitioner, fresh order shall be passed expeditiously.

With the aforesaid direction, this writ petition stands finally disposed of.

Sd/-
DINESH KUMAR SINGH
JUDGE

bpr

APPENDIX OF WP(C) 3107/2024

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF APPLICATION DATED 3.12.2022 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.
Exhibit P2	TRUE COPY OF NOTICE DATED 27.10.2023 ISSUED FROM RESPONDENT TO THE PETITIONER.
Exhibit P3	TRUE COPY OF LETTER DATED 3.11.2023 FROM THE PETITIONER TO THE RESPONDENT.
Exhibit P4	TRUE COPY OF THE CIRCULAR NO.13/2023 DATED 26.7.2023.
Exhibit P5	TRUE COPY OF THE RECEIPT OF HAVING DISPATCHED BY REGISTERED POST ALONG WITH THE TRACK RECORD.
Exhibit P6	TRUE COPY OF THE ORDER DATED 6.12.2023 BY RESPONDENT.