IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 19TH DAY OF JANUARY 2024 / 29TH POUSHA, 1945

WA NO. 90 OF 2024

WP(C) 1075/2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

MANATH MUHAMMED ISMAIL,
AGED 74 YEARS
S/O. LATE M.P.AHMED, MANATH PAZHAPURAYIL,
KAKKANADU, SEAPORT AIRPORT ROAD, COCHIN,
KERALA, PIN - 682030

BY ADVS.
ANIL D. NAIR
TELMA RAJU

RESPONDENTS/RESPONDENTS:

1 ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 1, KOCHI, PIN - 682018

2 COMMISSIONER OF INCOME TAX (APPEALS)- III,
C.R. BUILDING, IS PRESS ROAD, KOCHI, PIN - 682036

OTHER PRESENT:

SC-JOSE JOSEPH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

The petitioner in WP(C).No.1075 of 2024 is the appellant herein aggrieved by the judgment dated 10.01.2024 in the Writ Petition. The brief facts necessary for disposal of this Writ Appeal are as follows:

2. The appellant had impugned Exts.P1 to P4 assessment orders before this Court in the Writ Petition when confronted with recovery steps for recovery of the amounts confirmed against him by the assessment orders. It was the case of the appellant that against Exts.P1 to P4 assessment orders he has preferred Exts.P5 to P8 appeals and Exts.P9 to P12 stay petitions for the assessment years 2015-2016 to 2018-2019 under the Income Tax Act. The apprehension of the appellant was that even before consideration of the stay petitions there would be recovery steps initiated by the respondents for recovery of the amounts confirmed against the appellant by Exts.P1 to P4 assessment orders.

3. The learned Single Judge who considered the matter directed the respondents to consider and pass orders on the stay petitions if it was not possible to finally hear the appeals expeditiously. The learned Single Judge, however, did not grant a stay of recovery proceedings pending disposal of the stay petitions by the respondents. It is for this limited relief that the appellant is before us through the present appeal.

4. We have heard Sri.Anil D. Nair, the learned counsel for the appellant and Sri.Jose Joseph, the learned Standing counsel for the Income Tax Department.

5. In our view, since the learned Single Judge had relegated the appellant to the

alternate remedy before the statutory authority it was incumbent upon the learned Judge to protect the appellant from recovery proceedings pending disposal of the petitions by the respondent appellate authority. Accordingly, we modify the impugned judgment of the learned Single Judge to the limited extent of clarifying that pending disposal of the stay petitions or appeals whichever is earlier by the appellate authority, the recovery proceedings against the appellant for recovery of the amounts confirmed against him by Exts.P1 to P4 assessment orders shall be kept in abeyance. Save for this limited modification, the rest of the directions in the impugned judgment are not interfered with.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

AS