

P R Combines vs Assistant Commissioner of Income Tax

P R Combines vs Assistant Commissioner of Income Tax

SooperKanoon Citation : sooperkanoon.com/1385424

Court : Kerala

Decided On : Sep-05-2023

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/28145/2023

Appellant : P R Combines

Respondent : Assistant Commissioner of Income Tax

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
TUESDAY, THE 5TH DAY OF SEPTEMBER 2023 / 14TH BHADRA,
1945 WP(C) NO. 28145 OF 2023 PETITIONER: P R COMBINES,
19/1780, NARAYANA, P V SAMY ROAD, CHALAPURAM, KOZHIKODE
REPRESENTED BY ITS PARTNER - K N GOPALAKRISHNAN, PIN -
673 002. BY ADVS. R.JAIKRISHNA NARAYANI HARIKRISHNAN
C.S.ARUN SHANKAR ANISH P. RESPONDENTS: 1 ASSISTANT
COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2, OFFICE OF
THE ASSISTANT COMMISSIONER OF INCOME TAX, AAYAKAR
BHAVAN, NORTH BLOCK, NEW ANNEXE BUILDING, MANANCHIRA,
KOZHIKODE, PIN - 673 001. *2 COMMISSIONER INCOME TAX

(APPEALS) NATIONAL FACELESS APPEAL CENTER (NFAC), INCOME TAX DEPARTMENT, NORTH BLOCK, NEW DELHI, PIN - 110 001. DESCRIPTION & ADDRESS OF THE SECOND RESPONDENT IS SUBSTITUTED AS FOLLOWS AS PER ORDER DATED 05.09.2023 IN I.A. NO. 1 OF 2023: COMMISSIONER OF INCOME TAX (APPEALS) OFFICE OF COMMISSIONER OF INCOME TAX (APPEALS) C R BUILDING, I S PRESS ROAD KOCHI - 682 018.

3 ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 1, OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX .AAYAKAR BHAVAN, NORTH BLOCK, NEW ANNEXE BUILDING, MANANCHIRA, KOZHIKODE, PIN - 673 001. 4 VIJAYA BANK AFTER MERGER - BANK OF BARODA KALLAI ROAD JUNCTION CHALLAPURAM, INDUS AVENUE BUILDING KOZHIKODE REPRESENTED BY ITS - BRANCH MANAGER, PIN - 673 002. 5 PUNJAB NATIONAL BANK SHATADBHI BHAVAN, SERVICE BLOCK MINI BYE PASS ROAD, GOVINDAPURAM KOZHIKODE REPRESENTED BY ITS - BRANCH MANAGER, PIN - 673 007.

BY ADV. SRI. JOSE JOSEPH, SC, INCOME TAX SRI. SANDEEP ANKARATH, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P.(C) No. 28145/2023 : 2:

DINESH KUMAR SINGH, J.

----- W.P.(C). No. 28145 of 2023
----- Dated this the 5th day of September, 2023.

JUDGMENT

The present writ petition has been filed impugning Exhibits P17 and P18 recovery cum garnishee orders dated 13.07.2023 issued by the third respondent to recover the assessed tax pursuant to Exhibits P1 to P4 assessment orders.

2. Against Exhibits P1 to P4 assessment orders, the petitioner

has filed Exhibits P9 to P12 statutory appeals before the Commissioner of Income Tax (Appeals), respondent No.2, with a delay of 433 days. Neither the delay has been condoned, nor the appeals admitted.

3. Pending consideration of the applications for condonation of delay in filing the appeals, the impugned recovery cum garnishee orders have been issued by the third respondent to recover the assessed tax amount.

4. The learned counsel for the petitioner submits that the

petitioner is willing to deposit 20% of the assessed tax amount, subject to the final outcome of the appeals and the recovery cum garnishee orders may not be enforced. The learned counsel appearing for the Revenue does not have any objection to the said submission. W.P.(C) No. 28145/2023 : 3:

5. Considering the aforesaid facts, the present writ petition is

disposed of with a direction to the petitioner to deposit 20% of the assessed amount in Exhibits P1 to P4 within a period of one month from today. On making such deposit, the appellate authority should proceed with the applications for condoning delay and appeals expeditiously and decide the same in accordance with law. Till the disposal of the applications/appeals, the impugned Exhibits P5 to P8 demand notices and Exhibits P17 and P18 recovery cum garnishee orders, shall be kept in abeyance. If the petitioner fails to make deposit of the 20% of the assessed amount, the Department would be free to enforce Exhibits P17 and P19 recovery cum garnishee orders. It is made clear that this Court has not expressed any opinion on the merits of the matter. sd/- DINESH KUMAR SINGH, JUDGE. Rv W.P.(C) No. 28145/2023 : 4: APPENDIX OF WP(C) 28145/2023 PETITIONERS EXHIBITS: Exhibit P1 TRUE COPY OF THE ASSESSMENT ORDER ALONG WITH RESPONDENT FOR AY 2015-2016 DATED 28.9.2021. Exhibit P2 TRUE COPY OF THE ASSESSMENT ORDER ALONG WITH RESPONDENT FOR AY 2016-2017 DATED 28.9.2021. Exhibit P3 TRUE COPY OF THE ASSESSMENT ORDER ALONG WITH RESPONDENT FOR AY 2017-2018 DATED 28.9.2021.

Exhibit P4 TRUE COPY OF THE ASSESSMENT ORDER ALONG WITH RESPONDENT FOR AY 2018-2019 DATED 29.9.2021. Exhibit P5 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT FOR AY 2015-2016 DATED 28.9.2021. Exhibit P6 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT FOR AY 2016-2017 DATED 28.9.2021. Exhibit P7 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT FOR AY 2017-2018 DATED 28.9.2021. Exhibit P8 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT FOR AY 2018-2019 DATED 29.9.2021. Exhibit P9 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER FOR AY 2015-2016 DATED 8.8.2023. Exhibit P10 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER FOR AY 2016-2017 DATED 8.8.2023. Exhibit P11 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER FOR AY 2017-2018 DATED 8.8.2023. Exhibit P12 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER FOR AY 2018-2019 DATED 8.8.2023. Exhibit P13 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER FOR AY 2015-2016 DATED 8.8.2023. Exhibit P14 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER FOR AY 2016-2017 DATED 8.8.2023. Exhibit P15 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER FOR AY 2017-2018 DATED 8.8.2023. Exhibit P16 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER FOR AY 2018-2019 DATED 8.8.2023.

Exhibit P17 TRUE COPY OF THE RECOVERY CUM GARNISHEE ORDER

ISSUED BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT UNDER SECTION 226 OF INCOME TAX ACT DATED 13.7.2023. W.P.(C) No. 28145/2023 : 5:

Exhibit P18 TRUE COPY OF THE RECOVERY CUM GARNISHEE ORDER

ISSUED BY THE 3RD RESPONDENT TO THE 5TH RESPONDENT UNDER SECTION 226 OF INCOME TAX ACT DATED 13.7.2023. Exhibit P19 TRUE

COPY OF THE JUDGEMENT OF THIS HON'BLE COURT IN WP(C) 29498/2019 DATED 4.11.2019. Exhibit P20 TRUE COPY OF JUDGEMENT OF THIS HON'BLE COURT IN WP(C) 25801/2019 DATED 27.9.2019. RESPONDENTS EXHIBITS: NIL True Copy PS To Judge. rv

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com