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V. Gopalakrishnan Vs. Assistant Commissioner of Income Tax and ors.

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Court : Kerala

Decided On : Dec-17-1996

Reported in : (1998)148CTR(Ker)389

Appeal No. : OP No. 19481 of 1996

Appellant : V. Gopalakrishnan

Respondent : Assistant Commissioner of Income Tax and ors.

Judgement :

K. NARAYANA KUR UP, J.:

Heard learned counsel for the Revenue also.

2. The petitioner being aggrieved by Exhibit P3 block assessment for the period 1st April, 1985 to 16th Sept., 1995 has preferred Exhibit P5 appeal before the third respondent Tribunal, Ernakulam. Exhibit P6 is the stay petition. Learned counsel for the petitioner submits that Exhibit P5 is pending and that no orders have been passed on Exhibit P6 stay petition.

3. The grievance of the petitioner is that pending disposal of the appeal and pending issuance of orders on the stay petition, the first respondent has now issued Exhibit P7 notice calling upon the petitioner to clear off the demand within 10 days from the date of receipt of Exhibit P7, failing which it is threatened that coercive measures will be taken to realise the entire tax demanded. The specific

case of the petitioner as pleaded before this Court is that the income arrived in Exhibit P3 is based purely on assumptions and conjectures and as such Exhibit P3 cannot be sustained.

The further contentions of the petitioner are highlighted in Grounds A onwards in the original petition. However, this is a matter which requires careful consideration at the hands of the third respondent Tribunal before whom Exhibit P5 appeal is pending. Therefore, I am not pronouncing anything on the merits of those contentions in the present proceedings. All that I propose to do is to direct the Tribunal to consider and dispose of Exhibit P5 appeal as expeditiously as possible. Pending disposal of the appeal and having regard to the facts and circumstances brought to my notice and the legal question canvassed before me as set out in Ground A of the original petition, I am satisfied that the petitioner has made out a prima facie case for an ad interim stay. Accordingly, while disposing of the original petition directing the third respondent Tribunal to consider and dispose of Exhibit P5 appeal, there will be a stay of all further proceedings for collection of the balance tax demanded from the petitioner pursuant to Exhibits P3 and P7 on condition that the petitioner furnishes the following securities towards the tax demanded :

Rs.

5000

Equity shares of Kings International Acqua MarineExport Ltd. of Rs 10 each

50,000

1700

Equity shares of Federal Bank Ltd. of Rs. 10 each

2,21,000

Portion of the residential plot in Sy. No. 1825/D in

5,00,000

Meenad Village.

Original Petition is disposed of as above.

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