(2023) 12 KL CK 0126

In the High Court Of Kerala

Case No : Writ Petition (C) No.41846 Of 2023

Kadakkavoor Service Co-Operative Bank Ltd No 1063 — APPELLANT

Vs

Assessment Unit — RESPONDENT

Date of Decision : 13-12-2023

Acts Referred:
Income Tax Act, 1961 — Section 80P

Citation : (2023) 12 KL CK 0126

Hon'ble Judges : C.S.Dias, J

Bench : Single Bench

Advocate : Arjun Raghavan, T.R.Harikumar, Pooja Pankaj, P G Jayasankar

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed, inter-alia, to direct the second respondent not to proceed with the revenue recovery proceedings based on Ext P1 assessment order till the disposal of Ext P3 appeal and P5 stay petition.

2. The petitioner’s case is that, it is a primary agricultural credit society registered under the Kerala Co-operative Societies Act, 1969(in short, ‘Act’). Ext P1 assessment order was passed against the petitioner on 22.09.2022. The petitioner’s claim for deduction under Section 80P of the Income Tax Act, 1961, was rejected on the ground that there was no evidence to establish that the petitioner had satisfied the ingredients of the Primary Agricultural Credit Society

as contemplated under the Act. Even though the petitioner had canvassed the position laid down by the Hon'ble Supreme Court in Mavilayi Societies Co operative Bank v. Commissioner of Income Tax [2021 (1) KLT 485], the same was rejected by the second respondent. Aggrieved by Ext P1 order, the petitioner has preferred Ext P3 appeal before the fourth respondent along with Ext P5 stay petition. The petitioner prays that the second respondent may be directed to consider and dispose of Exts P3 & P5 within a time period and until such time to defer further proceedings pursuant to Ext P1 order.

2. Heard; Sri. Arjun Raghavan, the learned counsel appearing for the petitioner and Sri. P G Jayasankar, the learned Government Pleader appearing for the respondents.

3. Having considered the pleadings and materials on record and taking note of the fact that the petitioner has already preferred Ext P3 appeal along with Ext P5 stay petition before the fourth respondent, I deem it appropriate to dispose of the writ petition in the following manner:

(i) The fourth respondent is directed to consider and dispose of Ext P5 stay petition, in accordance with law and as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a certified copy of this judgment, after affording the petitioner an opportunity of being heard.

(ii) Needless to mention, if the fourth respondent proposes to pass any conditional order of stay, he shall state reasons for the same.

(iii) If at all the fourth respondent deems it appropriate to dispose of the appeal itself, it would be up to him to decide the same, as per the conditions stipulated in direction No.(i).

(iv) Until such time orders are passed on Ext P5 stay petition, all further proceedings pursuant to Ext P1 assessment order shall stand deferred.