(2023) 11 KL CK 0212

In the High Court Of Kerala

Case No : Writ Appeal No.1996 Of 2023

Sashi Raghavan Kumar APPELLANT

Vs

Additional/Joint/Deputy/Assistant Commissioner Of Income Tax/Income Tax Officer National E-Assessment Centre, Delhi, Pin 110001 RESPONDENT

Date of Decision : 21-11-2023

Acts Referred:

Citation : (2023) 11 KL CK 0212

Hon'ble Judges : Dr. A.K.Jayasankaran Nambiar, J;Dr. Kauser Edappagath, J

Bench : Division Bench

Advocate : Harisankar V. Menon, Meera V.Menon, R.Sreejith K.Krishna, Parvathy Menon, Jose Joseph

Final Decision : Disposed Of

Judgement

Dr. A.K.Jayasankaran Nambiar, J.

1. The petitioner in WP(C).No. 33098 of 2023 is the appellant herein aggrieved by the judgment dated 16.10.2023 in the Writ Petition. The brief facts necessary for disposal of this Writ Appeal are as follows:

2. The appellant had impugned Ext.P1 assessment order before this Court in the Writ Petition when confronted with recovery steps for recovery of the amounts confirmed against him by the assessment order. It was the case of the appellant that against Ext.P1 assessment order he has preferred Ext.P2 appeal along with Ext.P3 delay petition and Ext.P4 stay petition for the assessment year 2018-2019 under the Income Tax Act. The apprehension of the appellant was that even before consideration of the delay petition and stay petition there would be recovery steps initiated by the respondents for recovery of the amounts confirmed against the appellant by Ext.P1assessment order.

3. The learned Single Judge who considered the matter directed the respondents to consider and pass orders on the delay petition and the stay petition if it was

not possible to finally hear the appeal expeditiously. The learned Single Judge, however, did not grant a stay of recovery proceedings pending disposal of the stay petition by the respondents. It is for this limited relief that the appellant is before us through the present appeal.

4. We have heard Sri. Harisankar V. Menon, 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 alternative 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 petition or appeal whichever is earlier by the appellate authority, the recovery proceedings against the appellant for recovery of the amounts confirmed against him by Ext.P1assessment order shall be kept in abeyance. Save for this limited modification, the rest of the directions in the impugned judgment are not interfered with.