



2023:KER:68775

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 3<sup>RD</sup> DAY OF NOVEMBER 2023 / 12TH KARTHIKA, 1945

WP(C) NO. 36272 OF 2023

**PETITIONER:**

M/S. PRATHIBHA TRADERS,  
PUTHANPALLI ROAD, ERAMANGLAM,  
MALAPPURAM DISTRICT, REPRESENTED BY ITS MANAGING  
PARTNER, MUSTHAFA KAMAL VILAKKERI, PIN - 679587.

BY ADVS.

SRI. HARISANKAR V. MENON  
SMT. K. KRISHNA  
SMT. MEERA V. MENON  
SRI. R. SREEJITH  
SMT. PARVATHY MENON

**RESPONDENTS:**

- 1 THE ADDITIONAL/JOINT/DEPUTY/ASSISTANT  
COMMISSIONER OF INCOME TAX/  
INCOME TAX OFFICER, NATIONAL FACELESS ASSESSMENT CENTRE,  
DELHI, PIN - 110001.
- 2 NATIONAL FACELESS APPEAL CENTRE,  
DELHI, REPRESENTED BY THE COMMISSIONER OF INCOME TAX  
(APPEALS), PIN - 110001.
- 3 THE INCOME TAX OFFICER,  
WARD NO.2 20/1240, TARIF BAZAR,  
TOWN HALL ROAD, TIRUR, MALAPPURAM, PIN - 676101.
- 4 THE MANAGER,  
PUNJAB NATIONAL BANK ERAMANGALAM BRANCH,  
KOZHIKODE, PIN - 679587.

BY ADV.

SRI. AJITH KUMAR - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
03.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**DINESH KUMAR SINGH, J.****W.P.(C) No.36272 of 2023**

Dated this the 3<sup>rd</sup> day of November, 2023

**JUDGMENT**

1. The present writ petition has been filed for the following reliefs;

*(i) To direct the 2<sup>nd</sup> respondent to dispose of Ext.P2 appeal, and Ext.P3 stay petition by the issue of a writ of mandamus or such other writ or order or direction.*

*(ii) To grant the petitioner such other identical reliefs including the costs of these proceedings;*

2. The assessment proceedings got completed in respect of the income of the petitioner for the assessment years 2017-18 vide the Exhibit P-1 order dated 26.03.2022. The total income of the petitioner for the said period has been assessed as Rs.34,14,093/- under Section 147 read with Section 144 and 144B of the Income Tax Act, 1961. On the said income, demand notice has been issued and penalty proceedings has been directed to be initiated. Aggrieved by the said assessment order, the petitioner has filed an appeal in Exhibit P-2 along with stay petition in Exhibit P-3 before the 2<sup>nd</sup> respondent.

3. The Learned Counsel for the petitioner submits that though the appeal has been filed on time, i.e. on 06.04.2023 but, no decision has



been taken on the appeal or the stay application and in the meantime the petitioner is facing recovery proceedings in respect of the tax assessed on the income of the petitioner by the Exhibit P-1 order. The submission of the Learned Counsel for the petitioner is that the 2<sup>nd</sup> respondent to be directed to decide the appeal and stay application in a time bound manner and till a decision is taken on the application and stay application, no coercive proceedings against the petitioner can be initiated.

4. I have considered the submissions. When the appellate authority seized of the matter, this Court would not like to exercise its writ jurisdiction parallelly. It would be suffice to direct the 2<sup>nd</sup> respondent to decide the appeal pending before it in accordance with the law within a period of two months, and if it is not possible to decide the appeal finally within two months, the stay application be decided within a period of two months from today in accordance with the law.

With the aforesaid directions, this writ petition is finally disposed of.

**Sd/-**

**DINESH KUMAR SINGH  
JUDGE**

Svn



**APPENDIX OF WP(C) 36272/2023**

**PETITIONER'S EXHIBITS**

EXHIBIT P1 COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2017-18 DTD. 26-03-2022

EXHIBIT P2 COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2017-18 DTD. 06-04-2022

EXHIBIT P3 COPY OF STASY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 16-10-2023

EXHIBIT P4 COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT BANK DTD. 14-08-2023