



2023:KER:75270

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH AGRAHAYANA, 1945

WP(C) NO. 40083 OF 2023

PETITIONER/S:

VADAKOOT GOPALAN SURESH
AGED 41 YEARS
S/O GOPALAN 66 ARYA S.N PARK, S.N PARK POOTHOLE POOTHOLE,
WEST FORT, THRISSUR., PIN - 680004

BY ADV DIVYA RAVINDRAN

RESPONDENT/S:

- 1 THE DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE, AAYAKAR BHAVAN, SAKTHAN THAMPURAN
NAGAR, MUNICIPAL OFFICE ROAD, THRISSUR, KERALA., PIN - 680001
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE, AAYAKAR BHAVAN, SAKTHAN THAMPURAN
NAGAR, MUNICIPAL OFFICE ROAD, THRISSUR, KERALA., PIN - 680001
- 3 THE COMMISSIONER OF INCOME TAX (APPEALS)-III
CENTRAL REVENUE BUILDING IS PRESS ROAD, COCHIN KERALA., PIN
- 682018

BY NAVNEETH N NATH CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

The present writ petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

“1. To issue of a Writ of Mandamus or any other appropriate writ, order, or direction, directing the 2nd respondent to refrain from recovering the demands pursuant to Exts P1 to P5 Orders, pending disposal of the appeals Exts P6 to P10, pending before the 3rd respondent for AY 2011-12 to 2015-16.

2. To stay all proceedings pursuant to Exts P1 to P5 Assessment Orders issued by the 1st respondent for the Years 2011-12 to 2015- 16, pending disposal of the appeals before the 3rd respondents;

AND

3. To grant such other or further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The assessment order for the Assessment Year 2011-12 in respect of the petitioner was finalised under Section 143(3) read with Section 147 of the Income Tax Act on 27.12.2017 in Ext.P1. In respect of the Assessment Years 2012-13 to 2015-16 the petitioner declared the same income as



originally declared in the return filed under Section 148 of the Act. The assessment orders in respect of these Assessment Years were also finalized on the same day, i.e., 27.12.2017. Aggrieved by the said Assessment Orders, the petitioner had filed appeals along with the application for staying the demand. The petitioner's application for stay has been rejected as the petitioner had not remitted the 20% of tax demanded as per the relevant provision.

3. The petitioner has approached this Court, as this Court is sitting in parallel jurisdiction of the first Appellate Authority. If the petitioner is aggrieved by the rejection of the stay application, the remedy lies under the Income Tax Act and not before this Court.

I find no ground to entertain this writ petition, which is hereby dismissed.

Sd/-

DINESH KUMAR SINGH

JUDGE



APPENDIX OF WP(C) 40083/2023

PETITIONER EXHIBITS

- Exhibit - P1 THE TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT UNDER SECTION 143(3) R.W.S 147 OF THE ACT DATED 27.12.2017 FOR AY 2011-12
- Exhibit -P2 THE TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT UNDER SECTION 143(3) R.W.S 147 OF THE ACT DATED 27.12.2017 FOR AY 2012-13
- Exhibit - P3 THE TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT UNDER SECTION 143(3) R.W.S 147 OF THE ACT DATED 27.12.2017 FOR AY 2013-14
- Exhibit -P4 THE TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT UNDER SECTION 143(3) R.W.S 147 OF THE ACT DATED 27.12.2017 FOR AY 2014-15
- Exhibit -P5 THE TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT UNDER SECTION 143(3) R.W.S 147 OF THE ACT DATED 27.12.2017 FOR AY 2015-16
- Exhibit- P6 THE TRUE COPY OF THE APPEAL FILED IN FORM 35 FOR THE AY 2011-12 DATED 23.01.2018 BEFORE THE 3RD RESPONDENT
- Exhibit -P7 THE TRUE COPY OF THE APPEAL FILED IN FORM 35 FOR THE AY 2012-13 DATED 23.01.2018 BEFORE THE 3RD RESPONDENT
- Exhibit- P8 THE TRUE COPY OF THE APPEAL FILED IN FORM 35 FOR THE AY 2013-14 DATED 23.01.2018 BEFORE THE 3RD RESPONDENT
- Exhibit- P9 THE TRUE COPY OF THE APPEAL FILED IN FORM 35 FOR THE AY 2014-15 DATED 23.01.2018 BEFORE THE



3RD RESPONDENT

- Exhibit -P10 THE TRUE COPY OF THE APPEAL FILED IN FORM 35 FOR THE AY 2015-16 DATED 23.01.2018 BEFORE THE 2ND RESPONDENT
- Exhibit -P11 THE TRUE COPY OF THE JUDGMENT IN W.P (C) NO. 7767/2018 DATED 8TH MARCH 2018 RENDERED BY THIS HON'BLE COURT
- Exhibit -P12 THE TRUE COPY OF THE NOTICE DATED 09.11.2023 ISSUED BY THE 2ND RESPONDENT INTIMATING ABOUT THE OUTSTANDING DEMAND
- Exhibit -P13 THE TRUE COPY OF THE STAY ORDER ISSUED BY THE 3RD RESPONDENT ASKING THE PETITIONER TO PAY 20% OF THE OUTSTANDING DEMAND
- Exhibit -P14 THE TRUE COPY OF THE LETTER DATED 14.11.2023 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT