

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 1ST DAY OF NOVEMBER 2022 / 10TH KARTHIKA, 1944

WP(C) NO. 34783 OF 2022

PETITIONER:

DR. THURUTHIYATH SUMA
AGED 36 YEARS
SREEVALSAM, KATTAYAD ROAD, SULTHAN BATHERY S.O.,
WAYANAD, KERALA, PIN - 673592

BY ADVS.
S.ARUN RAJ
C.T.SUJA
ARJUN S.RAJ

RESPONDENTS:

- 1 ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF INCOME
TAX/INCOME TAX OFFICER
NATIONAL FACELESS ASSESSMENT CENTRE, INCOME TAX DEPARTMENT,
2ND FLOOR, E-RAMP, JAWAHARLAL NEHRU STADIUM,
NEW DELHI, PIN - 110003
- 2 COMMISSIONER OF INCOME TAX (APPEALS)
NATIONAL FACELESS APPEAL CENTRE, INCOME TAX DEPARTMENT,
2ND FLOOR, E-RAMP, JAWAHARLAL NEHRU STADIUM, NEW DELHI,
PIN - 110003
- 3 COMMISSIONER OF INCOME TAX (APPEALS)
AAYAKAR BHAVAN, NORTH BLOCK, MANANCHIRA,
KOZHIKODE, PIN - 673001.
- 4 INCOME TAX OFFICER
WARD-1, KALPETTA, SULTHAN BATHERY ROAD,
KAINATTY, KALPETTA, WAYANAD, PIN - 673122.
- 5 THE PRINCIPAL COMMISSIONER OF INCOME TAX
AAYAKAR BHAVAN, NORTH BLOCK,
MANANCHIRA, KOZHIKODE, PIN - 673001.

BY ADV JOSE JOSEPH, SC, INCOME TAX DEPARTMENT, KERALA
ADV. CHRISTOPHER ABRAHAM (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01.11.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioner suffered Ext.P1 order of assessment for assessment year 2017-18 under the provisions of Income Tax Act, 1961. The petitioner filed Ext.P2 appeal before the National Faceless Appeal Centre. However the petitioner did not file any stay petition along with the appeal. The petitioner received Ext.P3 notice of demand, following which the petitioner filed Ext.P4 before the jurisdictional appellate Commissioner.

2. The learned Standing Counsel appearing for the respondent Department states that the petitioner must file the stay petition before the National Faceless Appeal Centre and not before the jurisdictional Appellate Commissioner, who has no jurisdiction to hear the appeal/stay petition filed by the petitioner after the National Faceless Appeal Assessment/Appeal scheme came into force. It is submitted that if the petitioner so wishes to file a stay petition a link can be provided to the petitioner for uploading the stay petition.

3. Hence this writ petition is disposed of directing the National Faceless Appeal Centre to provide a link to the petitioner for filing stay petition in Ext.P2 appeal within a period of 2 weeks from the date of receipt of a certified copy of this judgment. If the petitioner files a stay petition within a period of 10 days from the date of receipt of the link, further coercive steps against the petitioner to recover the amounts due under Ext.P1 shall be kept in abeyance till the stay petition is decided by National Faceless Appeal Centre.

Sd/-
GOPINATH P.
JUDGE

APPENDIX OF WP (C) 34783/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE ASSESSMENT ORDER DATED 20-03-2022 UNDER SECTION 147 R.W.S 144 AND 144B OF THE ACT FOR THE AY 2017-18 ALONG WITH THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT
- Exhibit P2 TRUE COPY OF THE FIRST APPEAL E-FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY 2017-18
- Exhibit P3 TRUE COPY OF THE NOTICE DATED 28-09-2022 ISSUED BY THE 4TH RESPONDENT
- Exhibit P4 TRUE COPY OF THE STAY PETITION FOR THE AY 2017-18 ADDRESSED TO 2ND RESPONDENT:- CIT (APPEALS), NATIONAL FACELESS APPEAL CENTRE, DELHI FORWARDED TO THE 3RD RESPONDENT JURISDICTIONAL COMMISSIONER OF INCOME TAX (APPEALS), KOZHIKODE ALONG THE COVERING LETTER
- Exhibit P5 TRUE COPY OF THE JUDGMENT DATED 30-11-2021 IN W.P.(C) NO. 26935/2021 PASSED BY THIS HONOURABLE COURT.