



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

MONDAY, THE 18<sup>TH</sup> DAY OF MARCH 2024 / 28TH PHALGUNA, 1945

WA NO. 382 OF 2024

AGAINST THE JUDGMENT DATED 23/1/2024 IN WP(C) NO.30992 OF  
2022 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S. WADAKKANCHERRY SERVICE  
CO-OPERATIVE BANK LTD.,  
AGED 55 YEARS  
NO. 3279, THALAPPILLY, WADAKKANCHERRY, THRISSUR ,  
REPRESENTED BY ITS SECRETARY, MADANAN.K.P.,  
ddddPIN - 680582  
BY ADVS.  
HARISANKAR V. MENON  
K.KRISHNA  
MEERA V.MENON  
R.SREEJITH

RESPONDENTS/RESPONDENTS:

- 1 THE INCOME TAX OFFICER,  
WARD 2 (1), AAYAKAR BHAVAN, SAKTHAN THAMPURAN  
NAGAR, THRISSUR, PIN - 680001
- 2 THE ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER  
OF INCOME TAX/INCOME TAX OFFICER,  
INCOME TAX ASSESSMENT UNIT, NATIONAL FACELESS  
ASSESSMENT CENTRE, DELHI, PIN - 100001  
SC-JOSE JOSEPH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
18.03.2024, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



## J U D G M E N T

### **Dr. Kauser Edappagath, J.**

The appellant is a Co-operative Society providing credit facilities to its members and is an assessee to income tax.

2. The appellant filed income tax return with respect to the assessment year 2020-21 relevant to the financial year 2019-2020. The appellant's case was selected for scrutiny through CASS under the complete scrutiny category, and Ext.P1 show cause notice was issued directing him to file objection before 9/9/2022. The appellant did not file reply on or before 9/9/2022 due to the fact that its office was closed on account of Onam holidays. According to the appellant, its office resumed functioning only on 12/9/2022, and by that time, the online functionality to file reply in the income tax portal had already closed. Therefore, the appellant filed Ext.P2, a reply to the 1<sup>st</sup> respondent/jurisdictional assessing authority, on 14/9/2022, pointing out the objections as well as requesting an opportunity



WA No.382/2024

-:3:-

for a personal hearing through video conferencing. However, the 2<sup>nd</sup> respondent completed the assessment and passed Ext.P3 assessment order, creating a demand for ₹60,68,335/-. The appellant challenged Ext.P3 order unsuccessfully before the learned Single Judge. It is challenging the judgment of the learned Single Judge; the appellant is before us.

3. 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.

4. Though the appellant was directed to file reply to Ext.P1 on or before 9/9/2022, it is not in dispute that it gave Ext.P2 reply to the 1<sup>st</sup> respondent on 14/9/2022. In Ext. P2 reply, the appellant has not only pointed out its objections to the facts stated in Ext.P1 but also requested an opportunity for a personal hearing through video conferencing. In Ext.P2, the appellant has given a detailed bifurcation of the miscellaneous income of ₹1,30,67,114/- and claimed for deduction under Section 80P of the Income Tax Act. It is true that the appellant could not file reply to Ext.P1 through online mode. But the fact remains that he gave reply directly to the 1<sup>st</sup> respondent on 14/9/2022. Ext.P3



WA No.382/2024

- :4: -

order was passed on 23/9/2022. Even though the 1<sup>st</sup> respondent received Ext.P2 reply well in advance, he did not consider the same at all while passing Ext.P3 order. That apart, no opportunity for personal hearing as requested in Ext.P2 was given. In these circumstances, we are of the view that there is a clear violation of the principles of natural justice. Hence, the impugned judgment, as well as Ext.P3, are not sustainable, and we set aside the same. The 1<sup>st</sup> respondent is directed to redo the assessment taking into account the bifurcation of interest component shown in Ext.P2 reply and also giving an opportunity for personal hearing to the appellant. The 1<sup>st</sup> respondent shall, thereafter, pass a fresh assessment order within two months from the date of receipt of a copy of this judgment.

Writ appeal is disposed of as above.

Sd/-  
**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-  
**DR. KAUSER EDAPPAGATH**  
**JUDGE**

Rp