

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 3379 of 2007(B)

PETITIONER:

**K.H.FLOORINGS,
DOOR NO.IV/840, K.H.BAZAR, PATTAMBI,
A PARTNERSHIP FIRM, REPRESENTED BY ITS
MANAGING PARTNER, K.H.ABDUL GAFOOR.**

**BY ADV. SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN**

RESPONDENTS:

- 1. THE SALES TAX OFFICER,
COMMERCIAL TAXES DEPARTMENT,
PATTAMBI.**
- 2. THE DEPUTY COMMISSIONER (APPEALS)III,
COMMERCIAL TAXES, ERNAKULAM.**
- 3. THE ASSISTANT SECRETARY,
SALES TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, PALAKKAD.**
- 4. THE DEPUTY TAHSILDAR, (R.R.),
OTTAPPALAM.**

BY GOVERNMENT PLEADER SRI. JULIAN XAVIER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.BALAKRISHNAN NAIR, J.

WP(C).No.3379 of 2007-B

Dated this the 31st day of January, 2007.

JUDGMENT

The petitioner has approached this court mainly challenging Ext.P5 order which is an interim order passed by the Appellate Tribunal in a stay application filed along with Ext.P3 appeal filed against Ext.P2 decision of the appellate authority. The Tribunal by the said order found that the petitioner has made out a prima facie case and therefore directed it to pay 1/3rd of the disputed tax and furnish security for the balance amount within 4 weeks. The petitioner moved for modifying that order. The said motion was disposed of by Ext.P6 granting extension of time by 20 days. So, the petitioner challenges Ext.P6 also apart from Ext.P5 and he prays for early disposal of Ext.P3 appeal. He prays for a direction to keep in abeyance Ext.P7 recovery notice pending disposal of Ext.P3 appeal.

2. Ext.P5 is a very fair and reasonable order. The petitioner has been directed to pay 1/3rd of the amount pending appeal. So, I find nothing illegal with Ext.P5. In fact, Ext.P6 is an order in favour of the petitioner granting extension of time. Therefore, the challenge against Exts.P5 and P6 is repelled. If the petitioner wants early hearing of

Ext.P3 appeal, he may move the appellate Tribunal for the same.

Subject to that right the writ petition is dismissed.

MS

K.BALAKRISHNAN NAIR,
JUDGE.