

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 30TH SEPTEMBER 2008 / 8TH ASWINA 1930

WP(C).No. 29044 of 2008(G)

PETITIONER(S):

SRI.SABU B.M., S/O.SRI.K.BAVAKUNJU,
RESIDING AT SOUMYA MANZIL, VELLAKINAR JUNCTION,
CIVIL STATION WARD, ALLEPPEY.

BY ADV. SRI.E.P.GOVINDAN

RESPONDENT(S):

1. THE INTELLIGENCE OFFICER (IB),
COMMERCIAL TAXES, ALLEPPEY.
2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM.
3. THE TAHSILDAR (RR),
AMBALAPPUZHA TALUK, ALLEPPEY.
4. THE STATE OF KERALA, REPRESENTED BY
SECRETARY, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER ADV.SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/09/2008, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.M. JOSEPH, J.

.....
W.P.(C) No. 29044 OF 2008 G
.....

Dated this the 30th day of September, 2008

J U D G M E N T

Writ petition has been taken up for final hearing by the consent of the parties. I heard learned counsel for petitioner and learned Government Pleader.

2. Petitioner seeks a direction to the 2nd respondent to dispose of Ext.P3 appeal and to quash Ext.P2 penalty order and also to quash Ext.P4 order passed granting stay on condition that the petitioner pays 50% of the penalty imposed. As far as the challenge against Ext.P2 is concerned, since the petitioner has approached the appellate forum, I am not inclined to consider the same. As far as the challenge against Ext.P4 appellate order is concerned, stay is granted on condition that the petitioner pays 50% of the penalty and furnishes adequate security for the balance amount. Learned counsel for petitioner points out that the matter is covered in his favour by virtue of the decision reported in ***Supreme***

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[2008 (3) KLT 805]. In such circumstances, I feel that Ext.P4 cannot be sustained and accordingly, Ext.P4 is quashed and there will be a direction to the 2nd respondent to take up the application for stay filed by the petitioner and take a decision thereon in accordance with law, within three weeks from the date of receipt of a copy of this judgment. Till such decision is taken as aforesaid, recovery proceedings will be kept in abeyance.

Writ petition is disposed of as above.

Sd/-
(K.M.JOSEPH, JUDGE)

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/TRUE COPY/

P.A.TO JUDGE