

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 31ST DAY OF JANUARY 2014/11TH MAGHA, 1935

WP(C).No. 3222 of 2014 (C)

PETITIONER:

SHAJAHAN,
PROPRIETOR, GOOD LUCK IMPORTERS AND EXPORTS, 5/1035,
THAYYIL HOUSE, KOTTARAM ROAD, KOZHIKODE.

BY ADVS.SRI.A.V.MURALIDHARAN
SRI.C.AJITH KUMAR

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM - 695 001.

2. THE COMMERCIAL TAX OFFICER,
THIRD CIRCLE, KOZHIKODE - 673 104.

3. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOZHIKODE - 673 104.

4. THE DEPUTY TAHSILDAR (RR)
KOZHIKODE - 673 104.

BY SENIOR GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 3222 of 2014 (C)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1- TRUE COPY OF THE ASSESSMENT ORDER DATED 01/12/2012 LEVIED FOR THE ASSESSMENT YEAR 2007-2008 BY THE 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT-P2- TRUE COPY OF THE APPEAL MEMORANDUM DATED 15/02/2013 FILED BY THE PETITIONER AGAINST EXHIBIT-P1 ORDER BEFORE THE 3RD RESPONDENT.

EXHIBIT-P3- TRUE COPY OF THE PETITION FOR STAY DATED 15/02/2013 IN EXHIBIT-P2 APPEAL.

EXHIBIT-P4- TRUE COPY OF THE PETITION DATED 15/02/2013 FOR EMERGENT HEARING OF EXHIBIT-P2 APEAL

EXHIBIT-P5- TRUE COPY OF THE INTERIM ORDER DATED 27/09/2013 PASSED IN EXHIBIT-P3 STAY PETITION.

EXHIBIT-P6 SERIES - TRUE COPY OF THE DEMAND NOTICE DATED 31/12/2013 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

/TRUE COPY/

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P.A. TO JUDGE.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 3222 of 2014

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Dated, this the 31st day of January, 2014

JUDGMENT

Being aggrieved of Ext. P1 assessment order passed by the second respondent for the assessment year 2007 - '08, the petitioner has preferred Ext. P2 appeal along with Ext. P3 petition for stay. After considering the merit involved, the third respondent passed Ext. P5 interim order on 27.09.2013, granting interim stay subject to satisfaction of 40 % of the disputed liability within the time as specified therein. The petitioner is constrained to approach this Court by virtue of Ext. P6 series demand notices dated 31.12.2013, challenging the correctness and sustainability of the proceedings, particularly the condition imposed as per Ext. P5.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

3. After hearing both the sides and going through the pleadings and proceedings, this Court finds that Ext. P5 is a reasoned order and the condition imposed therein is not liable to be treated as an unconscionable or arbitrary one. This Court does not find it as a fit

case to call for interference invoking the discretionary jurisdiction available under Article 226 of the Constitution of India. However considering the persuasive submission made by the learned counsel for the petitioner that the time stipulated as per Ext. P5 order is already over, the petitioner is granted further period of two weeks to comply with the direction contained in Ext. P5. If the petitioner satisfies the amount within the time, he is entitled to get the benefit of interim stay ordered as per Ext. P5 till finalization of Ext. P2 appeal.

The Writ Petition is disposed of.

Sd/-
P. R. RAMACHANDRA MENON,
(JUDGE)

kmd