IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

Con.Case(C).No. 1023 of 2014 (S) IN WP(C).6821/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 6821/2014 of HIGH COURT OF KERALA DATED 17-03-2014

PETITIONER/PETITIONER:

S.GIRISH KUMAR
PROPRIETOR, CORPORATE COMPUTERS, TC.NO 26/1506
GOVERNMENT PRESS ROAD, THIRUVANANTHAPURAM 695001

BY ADV. SRI.S.M.PREM

RESPONDENT:

P.S.SAJITH, AGED ABOUT 38 YEARS,
S/O SRI A. SUDHAKRAN, THE COMMERCIAL TAX OFFICER
FIRST CIRCLE, TAX TOWER, KARAMANA
THIRUVANANTHAPURAM 695002

R1 BY ADV. GOVERNMENT PLEADER

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

<u>APPENDIX</u>

PETITIONER'S ANNEXURES :

ANNEXURE 1 : TRUE COPY ORDER DATED 02.04.2009 OF THE REAM 1 (FAST TRASCJ ASSESSMENT) THRIVANATHAPURAM OF THE COMMERCIAL TAXES DEPARTMENT.

ANNEXURE 2 : TRUE COPY OF THE CONDITIONAL ORDER NO. KVATA 373,374 & 375 /2013 DATED 24-2-2014 PASSED BY THE DEPUTY COMMISSIONER (APPEALS) COMMERCIAL TAXES, THIRUVANANTHAPURAM

ANNEXURE 3 : TRUE COPY OF THE JUDGMENT DATED 17.03.2014 IN W.P. © NO. 6821 OF 2014

ANNEXURE 4 : TRUE COPY OF THE ORDER DATED 16.07.2014 ALLOWING REVISION PETITION NO. 82/14 CANCELLING PROCEEDINGS/ORDER NO. CR112-12-13 AND DEMAND NOTICE FOR RS.290380/-

ANNEXURE 5 : TRUE COPY OF ORDER DATED 16.07.2014 IN REVISION PETITION NO. 83/14 MODIFYING PROCEEDINGS/ORDER NO. CR. 115/12-13 AND DEMAND NOTICE FOR RS.387510/- PENALTY REFIXED AT Rs. 240000/-

ANNEXURE 6 : TRUE COPY OF ORDER DATED 16-7-2014 DISMISSING REVISION PETIION NO. 84/14 CONFRIMING PROCEEDINGS / ORDER NO. CR - 113/12-13 AND DEMAND NOTICE FOR RS. 135870/-

/TRUE COPY/

P.A. TO JUDGE

P.R. RAMACHANDRA MENON J.

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Cont. Case (C) No. 1023 of 2014
against
W.P.(C) No. 6821 of 2014

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Dated, this the 9th day of September, 2015

JUDGMENT

Non-compliance of the directions contained in Annexure 3 judgment dated 17.03.2014 in W.P.(C) No. 6821 of 2014, made the petitioner to approach this Court by filing the present contempt matter.

2. According to the petitioner, during the pendency of the proceedings, the amounts were worked out and disbursements were effected by the concerned respondent. However, correctness of the figures were disputed and hence proceedings were filed by the petitioner, seeking to cause the respondent to disburse the actual amounts stated as due. In response to the said proceedings, particularly the affidavit filed by the petitioner; affidavit and additional affidavits were filed from the part of the respondent. Thereafter, yet another affidavit dated 01.04.2015 has been filed by the respondent, pursuant to the direction given by this Court on 23.03.2014; the relevant portion of which containing the calculation, as given in page No.4 is as follows :

"Total amount due as on 02.04.2009 is Rs.17,83,226/-

Total amount due on interest @ 10% on Rs.17,83,226/- from 02.07.2009 till 27.09.2014 = **93,4117/-**

Due amount payable to the State by the petitioner against CR.No.115/2012-13=2,400,40. Interest @ 12 % from 01.04.2012 to 27.09.2012 = 71,776/-.

Total **3,11,816/-**

Due against CR No.113/2012-13 amount Rs.1,35,8705. Interest from 01.04.2013 to 27.09.2014=24,420/-

Total **1,60,290/-**

Total amount due to the above said in CR. Nos. 113 and 115 = 3,11,816 + 160319 = 4,72,106

The amount due tot he petitioner **Rs.27,17,342/-**

Amount due to the State **Rs. 4,72,106/-**

Balance amount due to the petitioner **Rs.22,45,236/-**

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Payment by D.D. Dated 10.10.2014 Rs.14,99,718/-

Payment D.D. Dated 15.11.2014 Rs.6,54,807/-

Payment D.D. Dated 11.03.2015 Rs.90,712/-

Total amount = Rs.22,45,237/-

3. According to the respondent, calculation given by the petitioner and the averments in the affidavit are not at all correct; whereas figures are correctly given by the respondent in their affidavit. The said version is sought to be rebutted by the learned counsel for the petitioner, stating that there is error in arithmetic calculation and the course pursued by the respondent in working out the figures. If there is any dispute with regard to the factual details and the calculation made, it is always open for the petitioner to have it challenged by way of appropriate proceedings, which cannot be pursued in a contempt of Court proceedings.

With the above observations, the contempt matter is disposed of.

Sd/-

P. R. RAMACHANDRA MENON,
(JUDGE)

kmd