IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

RP.No. 194 of 2015

WA 582/2014, DATED 08-04-2014

REVIEW PETITIONER(S)/APPELLANT:

DR.K.K.BABU
MYLATTUPARA VEEDU, AYIRANALLOOR P.O., EDAMON
PUNALUR, KOLLAM-691307.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT(S)/RESPONDENTS :
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1. THE DEPUTY COMMISSONER (APPEALS)
COMMERCIAL TAXES, KOLLAM-691 013.

2. THE COMMERCIAL TAX OFFICER
COMMERCIAL TAX DEPARTMENT, ANCHAL, KOLLAM-691 306.

3. THE DEPUTY TAHSILDAR (R.R.)
TALUK OFFICE, PATHANAPURAM-689 695.

4. THE DEPUTY DRUGS CONTROLLER (AYURVEDA)
LICENSING AUTHORITY, THIRUVANANTHAPURAM-695 001.

5. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
SALES TAX DEPARTMENT (TAXES), SECRETARIAT
THIRUVANANTHAPURAM-695 001.

BY SENIOR GOVERNMENT PLEADER SRI.S.SUDHEESH KUMAR

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 19-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PJ

ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.
* * * * * * * * * * * * * *
R.P.No.194 of 2015 in
W.A.No.582 of 2014

Dated this the 19th day of March 2015

O R D E R

Shaffique,J

This review petition is filed by the appellant against the judgment dated 08/04/2014 in W.A.No.582/2014.

2. The writ appeal is filed against the judgment of the learned Single Judge refusing to interfere with the interim order passed by the appellate authority. However, the learned Single Judge granted instalment facility to the petitioner to make the payment as per the interim direction issued by the appellate authority. In the writ appeal, this Court did not go into the merits of the matter. But, having regard to the fact that the properties of the petitioner are under attachment, this Court modified the judgment of the learned Single Judge directing the appellant to pay 1/3rd of the amount demanded in five equal instalments commencing from 01/05/2014 and on that condition, the recovery proceedings were kept in abeyance.

3. In the review petition, it is inter alia contended that the petitioner was unable to raise amounts to make the payment, as directed. It is also contended if the appeal pending before the appellate authority is allowed in his favour, he will not be under obligation to pay the amount relating to the assessment years 2009-2010 and 2010-2011 amounting to Rs.70,08,121/- . It is also brought to the notice of this Court that the entire property of the petitioner is under attachment and unless sufficient time is granted, the property will be sold in auction.

4. Having regard to the aforesaid submission and having heard the learned counsel appearing for the petitioner as well as the learned Government Pleader, we do not think that any grounds are made out warranting interference with the judgment of the learned Single Judge. Though the learned Single Judge did not exercise discretion to grant any benefit to the petitioner, this Court, in exercise of discretion, permitted the petitioner to remit $1/3^{rd}$ of the amount demanded in five equal instalments to have

recovery proceedings in abeyance. Since there is no error apparent on the face of the records with reference to the judgment, we do not think that any further direction could be issued on the grounds mentioned in the review petition. That the petitioner has a valid case in the appeal are not matters which are germane for consideration at this stage of the proceedings.

5. Further, the learned Government Pleader submits that there is no restriction in hearing the appeal pending before the appellate authority. It is always open for the petitioner to approach the appellate authority for an early disposal of the appeal.

With the above observation, this review petition is dismissed.

(sd/-)
(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr