

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

RP.No. 311 of 2015 (F)

JUDGMENT DATED 5.3.2015 IN WP(C) 7054/2015
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REVIEW PETITIONER(S):

**DEVAMATHA ROCK PRODUCTS,
ODAKKALY, ASAMANOOR (P.O.),
PERUMBAVOOR, ERNAKULAM,
REPRESENTED BY N.D.JOSEPH, PARTNER.**

BY ADV. DR.K.P.PRADEEP

RESPONDENT(S):

- 1. INTELLIGENCE OFFICER, COMMERCIAL TAXES,
SQAUD NO.V, MATTANCHERY AT PERUMBAVOOR - 683 542.**
- 2. DEPUTY COMMISSIONER, COMMERCIAL TAXES,
MATTANCHERY - 682 002.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, MUVATTUPUZHA - 683 572.**
- 4. STATE OF KERALA, REPRESENTED BY ITS SECRETARY
TO GOVERNMENT, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
25-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A: CERTIFIED COPY OF THE JUDGMENT DTD.5.3.2015 IN
WP(C) NO.704/2015 F.**

**ANNEXURE B: TRUE COPY OF THE PERMISSION ORDER FROMNO.IE IN
TIN 32151215362 DTD.11.7.2012 FOR THE YEAR 2012-2013 ISSUED BY
THE COMMERCIAL TAX OFFICER, 1ST CIRCLE, PERUMBAVOOR.**

**ANNEXURE C: TRUE COPY OF THE PERMISSION ORDER FROMNO.IE IN
TIN 32151215362 DTD.10.6.2013 FOR THE YEAR 2013-2014 ISSUED BY
THE COMMERCIAL TAX OFFICER, 1ST CIRCLE, PERUMBAVOOR.**

**ANNEXURE D: TRUE COPY OF THE INVOICE NO.1 DATED 1.3.2010 ISSUED
M/S.PROPEL INDUSTRIES PRIVATE LTD., COIMBATORE TO THE
PETITIONER.**

**ANNEXURE E: TRUE COPY OF THE FORM NO.C WITH NO.321512/1C/1737/2009
DATED 7.8.2012 ISSUED BY THE PETITIONER TO M/S.PROPEL
INDUSTRIES PRIVATE LTD., COIMBATORE.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

R.P. No. 311 of 2015
in
W.P.(C). No. 7054 of 2015

Dated this the 25th day of March, 2015

ORDER

The review petition is filed seeking a review of the judgment dated 05.03.2015 in Writ Petition No.7054 of 2015. In the review petition, the ground raised is that, in the judgment certain factual aspects, that were pointed out by the petitioner in the appeal before the appellate authority regarding the merits of the case, have not been gone into while disposing the writ petition. I note that in the writ petition, what was impugned was an interim order passed by the appellate authority, in a stay petition filed by the petitioner along with the appeal, against an order confirming a demand of tax on him. While considering the legality of a stay order passed by an appellate authority, in proceedings under Article 226 of the Constitution of India, this Court exercises its power of judicial review over the order passed by the lower authority, in the light of the settled principles governing the exercise of judicial review of orders of quasi judicial authorities. Accordingly, in the instant case, this Court looked into the legality of the order passed by the appellate authority to ensure that the discretion, that was vested in the statutory authority, was exercised validly. On so examining the legality of the order, it was found that

Ext.P7 order of the 2nd respondent contained reasons, to support the decision of the 2nd respondent with regard to the requirement of the petitioner depositing some amount, of the tax confirmed against him, as a condition for the grant of stay of recovery of balance amounts. It was therefore, that the order of the 2nd respondent, that was impugned in the writ petition, was upheld and the petitioner given some time to effect the payments contemplated in the said order. I do not see any reason to review the judgment impugned in this Review Petition. The review petition is hence dismissed.

The learned counsel for the petitioner would point out that the time granted in the impugned judgment for complying with the requirement of deposit of tax, pursuant to Ext.P7 order, expires on 28.03.2015. He would pray for some more time to comply with the directions in Ext.P7 order. Taking note of the said contention of the petitioner, I extend the time for complying with Ext.P7 order till 10.04.2015.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE