IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WA.No. 601 of 2009 ( ) IN WP(C).21379/2004

AGAINST THE ORDER/JUDGMENT IN WP(C) 21379/2004 of HIGH COURT OF KERALA DATED 29.08.2008

APPELLANT(S)/RESPONDENTS:
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1. THE SALES TAX OFFICER, 2ND CIRCLE, TRIPUNITHURA.

2. THE DEPUTY TAHSILDAR (RR), KANAYANNUR TALUK, ERNAKULAM.

3. THE VILLAGE OFFICER, ELAMKULAM VILLAGE, KOCHI-20.

BY SRI. LIJU V. STEPHEN, GOVERNMENT PLEADER

RESPONDENT(S)/PETITIONER:

SREEDHARAN M.NAIR,
BLUE MOON, FATHIMA CHURCH LANE, ELAMKULAM,
KOCHI-20.

R BY SRI.K.SRIKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DG

WA.No. 601 of 2009

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE-A: COPY OF THE DEPOSITION.

RESPONDENTS EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

W.A.No.601 of 2009

and

C.M.Appl.No.288 of 2009 & I.A.No.51 of 2015

Dated this the 2nd day of February, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. The captioned I.A is filed seeking an order for paper publication of notice on the C.M. Application seeking condonation of delay of 114 days. We thought it appropriate to look into the matter further, since the writ appeal is yet to be admitted. We do so because of the expenditure that would have to be borne by the State, if paper publication is ordered as sought for.

2. The writ petitioner, an individual, filed the writ petition on 19.07.2004, when he faced the revenue recovery demand for alleged liability under the Kerala General Sales Tax Act, 1963, the 'Act', for short, as was due from a Public Limited Company.

He filed objections to the revenue recovery demand and thereafter, filed the writ petition in July 2004. Even when the judgment was delivered on 29.08.2008 by the learned single Judge, there was no counter affidavit on record on behalf of the State. There is nothing on record to show that there was any legal liability enforceable against that individual, under any known principle of law applicable to taxation, particularly under the Act. Reverting to the writ petition, we see the specific pleading that the company against which the assessment order was issued is a Public Limited Company and there is no liability against the director of a Public Limited Company and what was available even in terms of the Act is only the entitlement to proceed against the director of a private limited company. The learned single Judge rightly followed the judgment in **Punalur Paper Mills Ltd. & Another v. District Collector, Kollam** **[1985 KLT 758]** and **Nishad Patel v. State of Kerala** **[1999 (2) KLT S.N.51]**. Accordingly, the revenue recovery demand as against the writ petitioner was quashed.

3. Having looked into the materials and having heard the learned

Senior Government Pleader on the different aspects of the matter, we are not persuaded to take a different view. Under such circumstances, this writ appeal is only to fail.

In the result, the writ appeal, C.M. Application and I.A are dismissed.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG