

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

W.A.No. 1963 of 2012 () IN WP(C).32356/2010

**AGAINST THE JUDGMENT IN WP(C) 32356/2010 OF HIGH COURT OF KERALA DATED
27-03-2012**

APPELLANT(S)/PETITIONER:

**M/S.BELL CERAMICS LTD.,
30/958, TRIPUNITHURA ROAD, VYTILA,
KOCHI, REPRESENTED BY SUDHIR R.VYAS,
EXECUTIVE DIRECTOR.**

**BY ADVS.DR.K.B.MUHAMED KUTTY (SR.)
SRI.K.M.FIROZ**

RESPONDENT(S)/RESPONDENTS :

- 1. THE ASSISTANT COMMISSIONER
SPECIAL CIRCLE-III, COMMERCIAL TAXES, TAX COMPLEX,
ERNAKULAM-682 015.**
- 2. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KOCHI-682 030.**
- 3. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY SR. GOVERNMENT PLEADER, SRI.LIJU STEPHEN

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-05-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

W.A.No.1963 OF 2012

Dated this the 28th day of May, 2015

JUDGMENT

Antony Dominic, J.

This appeal is filed by the petitioner in W.P.(C) No.32356 of 2010. In the writ petition, the challenge was against the realization of Rs.3,07,415/- towards collection charges under the Revenue Recovery Rules, and which was paid by the appellant under protest. Before the learned Single Judge, to substantiate their claim for refund, the appellant placed reliance on the judgment of a Division Bench of this Court in ***'Malabar Organics Ltd. v. State of Kerala'*** [2009 (4) KLT 328]. However, taking note of the fact that an appeal filed by the State against the judgment is pending consideration of the Hon'ble Apex Court in S.L.P (C) No.2428/2010, the learned Judge disposed of the writ petition, giving liberty to the appellant to move for refund as and when the Apex Court takes its decision in the S.L.P mentioned above. It is this judgement which is under challenge before this Court.

2. When the appeal came up for consideration, this Court passed an order dated 1st July, 2013, which reads thus:

"There will be an interim order directing the respondents to release the collection charges within a period of three weeks on condition that the appellant furnishes a simple bond without sureties to the officer concerned to satisfy any demand that may be made consequent on the judgment that may be issued in this writ appeal."

3. A reading of this order shows that this Court had ordered refund of the amount claimed by the appellant and a simple bond was also ordered to be furnished in order to take care of the interest of the respondents in the event the Hon'ble Apex Court decides the S.L.P in their favour. In such circumstances, making the interim order dated 01.07.2013 absolute and giving liberty to the respondents to realize the sum refunded in the event the S.L.P is decided in their favour, this writ appeal is disposed of.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**SHAJI .P. CHALY
JUDGE**