

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WA.No. 1097 of 2013 () IN WP(C).15965/2013

WP(C) 15965/2013 of HIGH COURT OF KERALA DATED 26-06-2013

APPELLANT/PETITIONER IN WP:

M/S.K.C.T.STEEL (P) LTD.
246/12 8TH STREET, DHARANI NAGAR, GANAPATHY PUDUR
COIMBATORE 641 006
REPRESENTED BY ITS DIRECTOR M.JAYASARAVANA BALAJI

BY ADVS. SRI.P.B.KRISHNAN
SMT.GEETHA P.MENON
SRI.N.AJITH
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN

RESPONDENTS:

1. THE ASST. COMMISSIONER (ASSESSMENT) SPECIAL CIRCLE
COMMERCIAL TAXES, PALAKKAD 678 001.
2. THE TAHSILDAR
REVENUE RECOVERY, CHITTUR , PALAKKADE 678 101

BY SENIOR GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 20-05-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.1097 of 2013

Dated this the 20th day of May, 2015

JUDGMENT

Antony Dominic,J.

Appellant filed the writ petition challenging Ext.P1, an escaped assessment order passed under the provisions of the KGST Act concerning the assessment year 2004-2005, to the extent a patent mistake was committed by the respondents in as much as they had quantified 4% of Rs.30,60,98,690/- at Rs.12,24,03,948/-. By the judgment under appeal, the learned Single Judge found the above quantification to be a patent mistake and set aside Ext.P1 order giving liberty to the respondents to pass fresh order in accordance with law. However, while passing such order the learned Single Judge also imposed a condition that the appellant shall deposit a sum of Rs.20,00,000/- in two installments. It is aggrieved by this condition imposed by the learned Single Judge that this appeal is filed.

2. We heard the learned counsel for the appellant and the

learned Government Pleader appearing for the respondents.

3. Although various contentions were raised at the Bar, we find that at the time when this writ appeal came up for admission this Court passed an order dated 25.7.2013 which reads thus:

“Admitted, Learned Govt. Pleader takes notice.

The first respondent will proceed to pass fresh orders provisionally and subject to the result of the Writ Appeal, without insisting on the deposit to be made in terms of paragraph No.6 of the impugned judgment. Since Ext.P1 has been set aside by the learned single Judge, there shall be no recovery proceedings without concluding proceedings afresh.

Hand over to both sides.”

4. We have been informed by the counsel for the appellant that in pursuance to the above direction, the respondents have passed a fresh order as directed in the judgment under appeal. Taking note of the above, we do not think that there is any need for the appellant to deposit any amount as ordered by the learned Single Judge and that it will be only proper to give

liberty to the respondents to realise the liability due under the fresh order that they have already passed in the matter. Accordingly this writ appeal is disposed of vacating the direction of the learned Single Judge requiring the appellant to deposit Rs.20,00,000/- in two installments and giving liberty to the respondents to realise the amount due from the appellant under fresh order that they have passed, in accordance with law.

Appeal is disposed of accordingly.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. to Judge

smv