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. 1343 of 2013 () IN WP(C).21208/2013

JUDGMENT IN WP(C) 21208/2013 of HIGH COURT OF KERALA DATED 27-08-2013

APPELLANT/PETITIONER :

GIRIJA BAI. R
SRI VASAVIL INDUSTRIES, CHINNAPILLAI STREET, MELAMURI
PALAKKAD.

BY ADV. SRI.JOSE JOSEPH

RESPONDENTS :
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1. THE COMMERCIAL TAX OFFICER
COMMERCIAL TAX OFFICE, FIRST CIRCLE, PALAKKAD-678 001.

2. THE ASSISTANT COMMISSIONER (APPEALS)
COMMERCIAL TAXES, PALAKKAD-678 001.

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.1343 of 2013

Dated this the 20th of May, 2015

JUDGMENT

Antony Dominic,J.

The appellant filed the writ petition challenging Ext.P10, a conditional order of stay passed by the second respondent requiring her to deposit 25% of the impugned demand and furnish security for the balance. By the judgment under appeal, the learned Single Judge modified the order by requiring the appellant to deposit 20% of the amount demanded and to furnish security for the balance. It is this judgment which is under challenge.

2. We heard the learned counsel for the appellant and also the learned Government Pleader appearing for the respondents.

3. Ext.P10 is the order impugned by the appellant. It is by this order a condition was imposed by the appellate authority requiring the appellant to deposit a part of amount demanded in the Ext.P6 assessment order. In **Archana Agencies v. Commercial Tax Officer** [2014(2) KLT 715], this Court has

indicated the requirement of the appellate authority assigning reasons in support of his conclusions in orders such as Ext.P10. Reading of Ext.P10 order shows that the appellate authority has not given any reason for the direction requiring the appellant to deposit 25% of the amount demanded. For that reason, we cannot sustain Ext.P10 order and accordingly Ext.P10 order is quashed.

4. Ext.P10 order was passed in a stay petition along with Ext.P7 appeal filed before the second respondent as early as in August 2013. It is also a fact that since then by virtue of the interim orders passed by this Court no recovery proceedings have been initiated against the appellant. Considering the long pendency of Ext.P7 appeal filed by the appellant, we dispose of this writ appeal with the following directions:

1) That Ext.P10 will stand quashed.

2) The appellant shall furnish security for the amount demanded in Ext.P6 assessment order in accordance with the KVAT Rules. This shall be done

within four weeks from today.

3) Subject to compliance with the above, the appellate authority shall dispose of Ext.P7 appeal with notice to the appellant, at any rate, within eight weeks from the date of furnishing security.

4) In the meanwhile, recovery of the amount due under Ext.P6 assessment order for the year 2011-12 will stand stayed.

Appeal is disposed of accordingly.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy// P.A. to Judge

smv