

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

W.A.NO. 66 OF 2015 IN WP(C),31230/2014

AGAINST THE JUDGMENT IN WP(C) 31230/2014 OF HIGH COURT OF KERALA DATED 10.12.2014

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APPELLANT(S)/PETITIONER:

**NORTH MALABAR EDUCATIONAL AND CHARITABLE TRUST
NELLIADUKKAM, P.O.ANANDASRAMAM, KANHANGAD
KASARAGODE DISTRICT
PIN-671 531 REPRESENTED BY ITS MANAGING TRUSTEE**

BY ADV. SRI.R.RAMADAS

RESPONDENT(S)/RESPONDENTS:

- 1. THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM - 695 001**
- 2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KASARAGODE, PIN - 671 121**
- 3. THE INTELLIGENCE OFFICER
SQUAD NO.IV, COMMERCIAL TAXES, KASARAGODE
PIN-671121**
- 4. THE AUTHORISED OFFICER SDT (RR)
HOSDURG, KASARAGODE DISTRICT, PIN - 671 121**
- 5. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT)
COMMERCIAL TAXES, KASARAGODE, PIN-671 121.**

BY SR. GOVERNMENT PLEADER SRI. LIJU V. STEPHEN

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13-01-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

Writ Appeal No.66 of 2015

Dated this the 13th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the appellant quite in extenso.

2. This appeal is filed by the writ petitioner, which challenged a condition imposed by the statutory Appellate Authority while granting stay pending statutory appeal under the KVAT Act. The learned single Judge considered different aspects of the matter including the relevant facts and has concluded that the Appellate Authority had exercised its discretion, after adverting to and considering the relevant facts. Grant of stay in appellate jurisdiction under the statute has to be done on appropriate evaluation of the relevant materials to consider grant of stay. In doing so, the Appellate Authority would be within bounds to pass an order of stay with conditions that it may deem appropriate to invoke. In the case in hand, the Appellate Authority had given reasons for its decision and imposition of the condition. The learned single Judge, in the writ jurisdiction, has not persuaded to interfere with the conditions imposed by the Appellate Authority while granting stay. In this

intra-court appeal, we do not, therefore, find that the learned single Judge had erred in dismissing the writ petition, however, also by granting the petitioner two weeks time to comply with the condition. The appeal does not merit interference.

In the result, the appeal is dismissed in limine. By way of indulgence, it is ordered that the time for satisfying the condition will be two weeks from today.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.