IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WA.No. 100 of 2015 IN WP(C).33051/2014

AGAINST THE JUDGMENT IN WP(C) 33051/2014 of HIGH COURT OF KERALA DATED 16-12-2014
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APPELLANT(S)/PETITIONER:

CHEP INDIA PVT. LTD.
V/555F, PANNIVELIL WAREHOUSE PARA ROAD, KANJIKODE
PALAKKAD DISTRICT
PIN 678621. REPRESENTED BY ITS
AUTHORIZED SIGNATORY SRI.RAGHUPATHY VARRIER.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR

RESPONDENT(S)/RESPONDENT:

THE COMMERCIAL TAX OFFICER
THIRD CIRCLE, NEAR CIVIL STATION, PALAKKAD
PIN 678001.

BY SR. GOVERNMENT PLEADER SRI. LIJU V. STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

Writ Appeal No.100 of 2015

Dated this the 16th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Admitted. The learned Government Pleader takes notice for final disposal on merits. We have heard the learned counsel for the parties.

2. Appellant was served with pre-assessment notice under the provisions of the Kerala Value Added Tax Act, 2003 on 26/8/2014. On 1/9/2014, he sought an adjournment seeking two months time. That was granted. When he presented his objections to the pre-assessment notice on 1/11/2014, he was told that the proceedings had been concluded on 27/10/2014. The stand taken by the assessing authority is that the period of two months granted would run from 26/8/2014 and not from 1/9/2014, the date on which the adjournment was granted. That was accepted by the learned single Judge and the writ petition seeking interference with ex parte proceedings was dismissed.

3. We have looked into the pre-assessment notice, the

contents of the adjournment application filed on 1/9/2014 and the reply prepared by the assessee to be submitted in answer to the show cause notice. On the totality of the facts and circumstances, we are of the view that ends of justice require that the appellant should be given an opportunity to contest the pre-assessment notice before the assessing authority, however, on conditions. Looking into the entire material now available before us, it is appropriate that the appellant is given a further opportunity to contest the proceedings on condition that he remits an amount of Rs.25,000/- (Rupees twenty five thousand only) out of the entire amount demanded as per Ext.P4, provisionally and subject to the decision on conclusion of proceedings following this judgment.

In the result, this appeal is allowed directing that, if the appellant remits an amount of Rs.25,000/- (Rupees twenty five thousand only) out of the amount covered as per Ext.P4, provisionally, in terms of what is stated above, within a period of two weeks from today, Ext.P4 assessment order will stand set aside and the assessing authority will consider the objections of the assessee to the pre-assessment notice and decide on it, after giving it due opportunity of hearing. That shall be done in accordance with law. If remittance as aforesaid is not made, this appeal shall stand dismissed.

Sd/-
THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE

okb.