

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WA.No. 137 of 2015 () IN WP(C).31096/2014

**AGAINST THE JUDGMENT IN WP(C) 31096/2014 of HIGH COURT OF KERALA
DATED 17-12-2014**

APPELLANT/PETITIONER:

**K.G.SURESHKUMAR
PROPRIETOR, HOTEL MARINE PALACE, KOVALAM
THIRUVANANTHAPURAM.**

BY ADV. SRI.T.KANANDA KRISHNAN

RESPONDENTS/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, TAX DEPARTMENT,
SECRETARIATE, TRIVANDRUM - 695 001.**
- 2. COMMERCIAL TAX OFFICER
NEYATTINKARA, THIRUVANANTHAPURAM - 695 001.**
- 3. INTELLIGENCE OFFICER
SQUAD NO.V, COMMERCIAL TAXES,
THIRUVANANTHAPURAM - 695 001.**
- 4. DEPUTY COMMISSIONER (APPEALS)
SALES TAX DEPARTMENT, THIRUVANANTHAPURAM -695 001.**

R BY SR.GOVERNMENT PLEADER, SRI.LIJU V.STEPHEN

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

WA.No.137 OF 2015

Dated this the 22nd day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

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

2. The appellant, an assessee, carried a statutory appeal challenging the assessment order. The Appellate Authority has granted a stay of enforcement of recovery on condition that the assessee satisfies 30% of the disputed liability pending the appeal. While the contention of the appellant is regarding the availability or otherwise of the books of accounts and other facts of the matter, we see that the learned single Judge was justified in dismissing the writ petition declining interference in exercise of the discretionary jurisdiction under Article 226 of the Constitution of India. We, therefore, are of the view that the learned single Judge acted correctly. We are also of the view that the learned single Judge has very graciously extended the period of time to satisfy the condition. No interference is called for with the impugned judgment.

The writ appeal fails and the same is accordingly dismissed.

Sd/-
THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-
K.HARILAL, JUDGE