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

W.A.No. 139 of 2015 IN WP(C).31419/2014

AGAINST THE JUDGMENT IN WP(C) 31419/2014 of HIGH COURT OF KERALA DATED 11-12-2014

APPELLANT/PETITIONER:

SOORAJ A.V
PROPRIETOR M/S VECTOR SURGICAL DISPOSABLES
RAYAMANGALAM P.O.

BY ADVS.SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN

RESPONDENTS:
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1. THE INTELLIGENCE OFFICER (IB)
   O/o THE DEPUTY COMMISSIONER (INT)
   DEPARTMENT OF COMMERCIAL TAXES,
   ERNAKULAM AT EDAPALLY 682 024.

2. THE COMMERCIAL TAX OFFICER,
   DEPT. OF COMMERCIAL TAXES,
   IIND CIRCLE,
   KALAMASSERY-682 030.

R BY SENIOR GOVERNMENT PLEADER MR.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.

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W.A.(C)No.139 OF 2015

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Dated this the 22nd day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard learned counsel for the appellant, who challenged Ext.P1 notice issued by the Intelligence Officer under Section 67(1) of the KVAT Act. Ext.P1 is only a show cause notice proposing to impose penalty upon the petitioner. He has filed objections to that notice. According to the petitioner, no penalty could be imposed upon him. Though the learned single Judge has recorded the arguments of the learned Government Pleader in the third paragraph of the impugned judgment, we see that the judgment does not contain any observation that could be put against the interest of the petitioner. Learned single Judge was justified in holding that the facts do not lead any question open for an adjudication on a jurisdictional issue that could be resolved under Article 226, particularly in tax matters. The impugned proceedings are in the primitive stage and there are statutory remedies available to the person facing the proceedings.

The mere fact that the assessment proceedings would be proceeded with by a competent authority, is not persuasive. Under such circumstances, we do not find any ground to interfere with the impugned judgment in this intra-court appeal under Section 5 of the High Court Act.

In the result, this appeal is dismissed *in limine*.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, Judge

Sd/-

K.HARILAL, Judge

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