

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WAno. 165 of 2015

**AGAINST THE JUDGMENT IN WP(C) 23473/2014 of HIGH COURT OF KERALA
DATED 29-09-2014**

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APPELLANT/WRIT PETITIONER:

**T.ABDU, AGED 50 YEARS, S/O.T KOYAKUTTY HAJI,
(TIN 32100214252), PROPRIETOR,
DHARVESH INTERNATIONAL, P.O,THACHINGANDAM,
MALAPPURAM DISTRICT- 679 325.**

BY ADV. SRI.K.RAVI (PARIYARATH)

RESPONDENTS/RESPONDENTS:

- 1. THE SECRETARY (TAXES)
THIRUVANANTHAPURAM-695 001.**
- 2. COMMISSIONER OF COMMERCIAL TAXES,
(P.O) KARAMANA-PIN 695 002.**
- 3. THE DEPUTY COMMISSIONER (COMMERCIAL TAXES),
MALAPPURAM, PIN-676 505.**
- 4. THE COMMERCIAL TAX OFFICER
PERINTHALMANNA, MALAPPURAM DISTRICT -679 322.**
- 5. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
PERINTHALMANNA, PIN-679 322.**

BY SR. GOVERNMENT PLEADER SRI. LIJU V.STEPHEN

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OKB

THOTTATHIL B. RADHAKRISHNAN & K.HARILAL, JJ.

Writ Appeal No.165 of 2015

Dated this the 29th day of January, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the appellant and the learned Senior Government Pleader.

2. The writ petition was filed challenging the orders passed under Section 66(3) of the KVAT Act, with the complaint that the petitioner was not permitted to revise the returns and the permission sought under Section 42(2) of the Act was wrongfully denied. On going through the materials, the learned single Judge found that the decisions were actually taken on 22/7/2013 and communicated and that the order under Section 66(3) was passed on 28/2/2014. The writ petition was filed only in September 2014. The learned single Judge was of the view that no grounds existed to entertain the writ petition belatedly. It was held by the learned single Judge that the discretionary jurisdiction cannot be invoked in the case in hand and that this is not a fit case which calls for interference invoking such power. We do not find that the

discretion exercised by the learned single Judge warrants interference in this intra-court appeal under Section 5 of the High Court Act. This writ appeal, therefore, fails.

In the result, this writ appeal is dismissed.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K.HARILAL, JUDGE

okb.