

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN

&

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WA.No. 267 of 2015 () IN WP(C).2907/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 2907/2015 of HIGH COURT OF
KERALA DATED 29-01-2015

APPELLANT(S)/PETITIONER:

ORMA TIMBERS
VP.VII/157A, THANKY JUNCTION, N.H.ROAD
KALAVANCODAM P.O., CHERTHALA
PIN - 688 586 REPRESENTED BY ITS MANAGING PARTNER
MR.LAJI JOSEPH.

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SRI.M.M.SHAJAHAN

RESPONDENT(S)/RESPONDENTS:

-
1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695 001.
 2. DEPUTY COMMISSIONER (APPEALS)
TAX COMPLEX, ASRAMOM P.O., CHINNAKKADA
KOLLAM DISTRICT, PIN - 691 002.
 3. COMMERCIAL OFFICER-II
OFFICE OF THE COMMERCIAL TAX,
NEAR: STONE BRIDGE
ALAPPUZHA DISTRICT, PIN - 688 524
REPRESENTED BY R.SREELATHA.
 4. DEPUTY TAHSILDAR (REVENUE RECOVERY)
TALUK OFFICE, CHERTHALA (P.O.),
ALAPPUZHA DISTRICT
PIN - 688 524.

BY ADV.LIJU V.STEPHEN, SR.GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19-
02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

.....
W.A.No.267 of 2015
.....

Dated this the 19th day of February, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned counsel for the appellant and the learned senior Government Pleader.
- 2.Appellant–petitioner challenged an interlocutory order issued pending statutory appeal under the Kerala Value Added Tax Act, 2003. The learned single Judge found that imposition of condition as to deposit of 30% of the balance tax was not based on any reason reflected in the order of stay by the appellate authority. Hence, the stay order impugned in the writ petition was quashed and the appellate authority was directed to consider the stay petition de novo within a time limit of two months. It appears that, in the meanwhile, a mobile crane belonging to the appellant was attached. The learned single Judge, taking note of the relevant facts and factors, has delivered the judgment

directing release of the mobile crane on deposit of ₹3,00,000/-. Looking at different aspects of the matter and the probable value of the mobile crane detained, we do not think that the condition imposed by the learned single Judge is onerous. All that has to be ensured is that the appellate authority shall, without fail, dispose of the stay petition within the time limit fixed by the learned single Judge. The time for availing the benefit of the judgment of the learned single Judge, insofar as it relates to release of the mobile crane on deposit of ₹3,00,000/-, is extended for a period of one week from today, as last chance.

The writ appeal is dismissed, subject to what is aforesaid.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)