IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

W.A.No. 720 of 2015 () IN WP(C).4577/2015

AGAINST THE JUDGMENT IN WP(C) 4577/2015 of HIGH COURT OF KERALA DATED 12-02-2015

APPELLANT(S)/PETITIONER:

M/S. ELITE ASSOCIATES,
DOOR NO.40/9262,
MAYUR BUSINESS CENTRE,
3RD FLOOR, CHITTOOR ROAD,
PULLEPADY JUNCTION,
ERNAKULAM - 682 035,
REP. BY ITS PROPRIETOR JIMMY ELIAS.

BY ADVS.SRI.E.N.VISHNU NAMBOODIRI
SRI.P.P.NARAYANAN
SRI.S.P.SURESH KUMAR

RESPONDENT(S)/RESPONDENTS:
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1. ASSISTANT COMMISSIONER,
   COMMERCIAL TAX,
   ERNAKULAM, KOCHI - 682 039.

2. COMMERCIAL TAX OFFICER,
   COMMERCIAL TAXES,
   OFFICE OF THE COMMERCIAL TAX OFFICER,
   2ND CIRCLE, ERNAKULAM - 682 018.

3. DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, ERNAKULAM - 682 031.

BY SENIOR GOVERNMENT PLEADER. SRI. LIJU V. STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

W.A.No.720 of 2015

APPENDIX

APPELLANT'S EXHIBITS:

ANNEXURE A-1: TRUE COPY OF THE JUDGMENT DATED 13.11.2014 IN W.P.(C) NO.29888/2014 OF THE LEARNED SINGLE JUDGE OF THIS HONOUR ABLE COURT.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGES

St/-

THOTTATHIL B.RADHAKRISHNAN
&
K.HARILAL, JJ.

W.A.No.720 of 2015

Dated this the 30th day of March, 2015

JUDGMENT

Thottathil B.Radhakrishnan, J.

We have heard the learned counsel appearing for the appellant and the learned counsel for the respondents.

2. The appellant filed the writ petition challenging the condition imposed while granting stay in the statutory appeal under the K.V.A.T. Act.

3. The crux of the contentions in the statutory appeal against the assessment order revolves around the allegation raised by the appellant that another dealer had made fraudulent returns and fabricated documents. The fact of the matter remains that the appellant did not respond in time to the pre-assessment notice. The appellate authority has stated reasons for imposing condition while granting the interim order of stay. The learned single Judge has also considered the relevant aspects

to conclude as to whether the discretionary order granted by the appellate authority warrants interference. The learned single Judge found no way to interfere, having examined the materials in the light of the submissions made, including that only on a proper investigation or enquiry, the fraudulent activities of another dealer as projected by the appellant would come out.

4. We are of the view that the learned single Judge was justified in dismissing the writ petition. We, therefore, see no merit in the writ appeal, and hence it fails.

In the result, this writ appeal is dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
JUDGE

Sd/-
K.HARILAL
JUDGE

//true copy//

P.S. to Judge

St/-