

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WA.No. 810 of 2015 IN WP(C).7601/2015

AGAINST THE JUDGMENT IN WP(C) NO.7601/2015 of HIGH COURT
OF KERALA.

APPELLANT(S)/PETRITIONER:

M/S. LARSEN & TOUBRO LIMITED,
HEAVY ENGINEERING DIVISION, POWAI CAMPUS,
SAKI VIHAR ROAD, P.O. BOX NO 8901,
MUMBAI-400072, REPRESENTED BY ITS MANAGER
MR.ISWARAN A.G.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD

RESPONDENT(S)/RESPONDENTS:

1. DEPUTY COMMISSIONER (APPEALS),
ERNAKULAM-682 016.

2. DEPUTY COMMISSIONER(ASSESSMENT)
ERNAKULAM-682 016.

3. THE INTELLIGENCE OFFICE (IB) II,
O/O THE DEPUTY COMMISSIONER (INTELLIGENCE),
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE.-673 001

BY SENIOR GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN & K. HARILAL, JJ.

Writ Appeal No.810 of 2015

Dated this the 8th day of April, 2015.

JUDGMENT

Thottathil B. Radhakrishnan, J.

1. We have heard the learned counsel appearing for the appellant and the learned Senior Government Pleader.
2. This appeal is against the judgment whereby the learned single Judge dealt with the issue relating to two interlocutory orders issued by the Appellate Authority under the provisions of the Kerala Value Added Tax Act and the Kerala General Sales Tax Act. In this appeal, we are only concerned with the order of the learned single Judge to the extent it confirms Ext.P22, which is an order imposing condition for stay pending appeal against the penalty order.
3. While the learned single Judge is not unjustified in saying that Ext.P22 is supported by reasons, we see that the nature of the transaction and the contentions raised by the petitioner before the Deputy Commissioner (Appeals) needed to be considered further to ensure that the condition imposed is reasonable on

the totality of the facts and circumstances having regard to the nature of the transaction and the identity of the purchaser as well.

4. Having bestowed our anxious consideration to the facts we are of the view that the ends of justice would be satisfied, if the imposition made as per Ext.P22 is trimmed down to 30%.

5. In the result, without expressing anything on the merits of the appeal pending before any among the authorities, it is ordered that the condition imposed as per Ext.P22 for the order of stay granted thereby will stand modified to 30% instead of 50%. The period to remit such amount is enlarged hereby for fifteen days from today.

The writ appeal is ordered accordingly.

Sd/-

THOTTATHIL B. RADHAKRISHNAN, JUDGE

Sd/-

K. HARILAL, JUDGE

okb.

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P.A. To Judge