IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

W.A.No. 849 of 2015 () IN WP(C)6564/2015

AGAINST THE JUDGMENT IN WP(C) 6564/2015 of HIGH COURT OF KERALA DATED 9.3.2015

APPELLANTS/RESPONDENTS IN THE WPC:
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1. THE DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, KOLLAM-691 012.

2. THE ASSISTANT COMMISSIONER,
   COMMERCIAL TAXES, KOLLAM-691 013

3. TAHSILDAR,
   REVENUE RECOVERY, KOLLAM-691 013.

4. VILLAGE OFFICER,
   KILIKOLLOOR, KOLLAM-691 004.

BY SR. GOVERNMENT PLEADER SRI.GEORGE MECHERIL

RESPONDENT/PETITIONER IN THE WPC:

M/S. M.V.R.EXPORTS PVT. LTD,
NO.24, GST ROAD, GUINDI
CHENNAI
REP. BY ITS DIRECTOR'S POWER OF ATTORNEY HOLDER SRI.R.JAMES.

R. BY ADV. SRI.S.SURESH BABU (CHERUNNIYOOR)
R BY SRI. AJI .V.DEV

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

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Writ Appeal No.849 of 2015

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Dated this the 20th day of May, 2015

JUDGMENT

Shaji P.Chaly, J.

The State, aggrieved by the order of the learned Single Judge, has preferred this appeal. The learned Single Judge has set aside Ext.P5 order of the Appellate Authority directing the petitioner to remit 35% of the tax and interest demanded for the assessment years 1993-1994, 1994-95 and 1995-1996, on the ground that sufficient reasons are not shown by the Appellate Authority while granting the order of conditional stay.

2. The learned Single Judge has also relied on the judgment reported in ***Archana Agencies v. Commercial Tax Officer [2014 (2) KLT 715]*** in order to uphold the proposition that the Appellate Authorities are bound to show reasons while passing interim orders in the appeals preferred before them.

3. Heard the learned Government Pleader and the counsel for the respondent. We have gone through the appeal memorandum, perused the records and find that the Appellate Authority while passing Ext.P5 order has shown sufficient reasons to arrive at a conclusion that only a

conditional order of stay can be granted by directing the assessee to pay 35% of the tax and interest levied by the Assessing Authority. On a consideration of the relevant facts and circumstances involved in the case, we are of the considered opinion that the reasons shown in the impugned order is sufficient enough to pass an order of conditional stay. We also find that the reasons stated by the Appellate Authority in the order impugned satisfies all requirements contemplated in the above cited decision.

4. The learned counsel for the assessee apart from canvassing for the proposition that the grounds shown in the order impugned to satisfy the requirement of the principles laid down in the decision cited supra, submits that the amount involved in the subject matter is more than 51 crores and taking into account the said submission made and his willingness to produce the records before the Appellate Authority for consideration, we think it fit and proper to modify the condition imposed by the Appellate Authority by reducing the same to deposit only 35% of the total tax assessed.

Therefore, we allow the appeal preferred by the State by setting aside the judgment of the learned Single Judge, however, subject to the condition that the respondent assessee deposits 35% of the total tax assessed in Ext.P1 series assessment orders passed for the assessment years 1993-1994, 1994-95 and 1995-1996. The remittance shall be made within six weeks from the date of receipt of a copy of this judgment. Considering the fact that the dispute related to the assessment years 1993-1994, 1994-95 and 1995-1996, we also direct the Appellate Authority to pass final orders in the appeal as expeditiously as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

ANTONY DOMINIC
JUDGE

SHAJI P. CHALY
JUDGE

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