

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WA.No. 1169 of 2015 () IN WP(C).12754/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 12754/2015 of HIGH COURT OF KERALA
DATED 28-04-2015

APPELLANT(S)/PETITIONER:

M/S.SUNRISE TSR FACTORY, REP. BY ITS
MANAGING PARTNER K.O.MOHAMMED SHAH,
V/777,IDA, EDAYAR, MUPPATHADAM P.O.,
ERNAKULAM.

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S)/RESPONDENTS:

1. COMMERCIAL TAX OFFICER,
NORTH PARAVOOR -683515.
2. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES DEPARTMENT,
SALES TAX COMPLEX, 4TH FLOOR,
PERUMANOOR P.O., COCHIN -682015.
3. INSPECTING ASSISTANT COMMISSIONER, THRICHUR
IN CHARGE OF ASSISTANT COMMISSIONER (APPEALS)
ERNAKULAM -682031.
4. STATE OF KERALA REPRESENTED BY SECRETARY TO
GOVERNMENT, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM -695001.

R BY SR GOVERNMENT PLEADER SRI.LIJU STEPHAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WA.1169/15

APPELLANT'S EXHIBITS:

- ANNEXURE A1: THE TRUE COPY OF MONTHLY VAT RETURNS E FILED BEFORE R1 FOR DECEMBER 2011.
- ANNEXURE A2: THE TRUE COPY OF MONTHLY VAT RETURNS E FILED BEFORE R1 FOR JANUARY 12.
- ANNEXURE A3: THE TRUE COPY OF MONTHLY VAT RETURNS E FILED BEFORE R1 FOR FEBRUARY 12.
- ANNEXURE A4: THE TRUE COPY OF MONTHLY VAT RETURNS E FILED BEFORE R1 FOR MARCH 12.
- ANNEXURE A5: TRUE COPY OF THE 'C' FORM NO.241088730191218/16.8.12
- ANNEXURE A6: TRUE COPY OF THE 'C' FORM NO.A.297282/12.6.12.
- ANNEXURE A7: TRUE COPY OF THE 'C' FORM NO.PB AA/C 7671962/29.11.12
- ANNEXURE A8: TRUE COPY OF THE 'C' FORM NO.241108500011118/2.2.12.
- ANNEXURE A9: TRUE COPY OF THE 'C' FORM NO.DNH/C/1154539/24.10.12
- ANNEXURE A10: TRUE COPY OF THE 'C' FORM NO.5954775/21.12.12.
- ANNEXURE A11: TRUE COPY OF THE 'C' FORM NO.0527134/26.10.12.
- ANNEXURE A12: TRUE COPY OF THE 'C' FORM NO.241088772851218/17.8.12.
- ANNEXURE A13: TRUE COPY OF THE 'C' FORM NO.241042644681218/28.4.12.
- ANNEXURE A14: TRUE COPY OF THE 'C' FORM NO.0527135/26.10.12
- ANNEXURE A15: TRUE COPY OF THE 'C' FORM NO.DNH/C/1154540/24.10.12.
- ANNEXURE A16: TRUE COPY OF THE 'C' FORM NO.5954774/21.12.12.
- ANNEXURE A17: TRUE COPY OF THE DETAILED LIST FILED ALONG WITH THE 'C' FORMS FOR RS.12,24,35,905/-

/TRUE COPY/

PS TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

W.A.No.1169 of 2015

Dated this the 16th day of June, 2015

JUDGMENT

Antony Dominic, J.

- 1.This appeal is filed aggrieved by the judgment of the learned single Judge dismissing W.P(C).12754/15 filed by the appellant. In the writ petition, the appellant challenged Ext.P8 order passed by the first appellate authority granting stay on condition that the appellant deposits 30% of the demand. This order was confirmed by the learned single Judge in the judgment under appeal.
- 2.we heard learned counsel for the appellant and learned Government pleader appearing for the respondents.
- 3.Submissions made by the learned counsel for the appellant are to the effect that the appellant has a strong case on merits. In our view, even if it is so, when the interlocutory application for stay is considered, that would only entitle the appellant an order of stay, conditions of which are to be decided

by the appellate authority taking into consideration the merits also. It was accordingly that the appellate authority has considered the rival contentions and imposed the condition, requiring the appellant to deposit 30%. The judgment of the learned single Judge confirming the order of the first appellate authority does not suffer from any irregularity or illegality. However, taking note of the submissions made, we extend the time for payment of the amount due in Ext.P8 by two weeks from today.

Appeal is dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

k kb.