

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYASHTA, 1937

WA.No. 1207 of 2015 () IN WP(C).14271/2015

JUDGMENT IN WP(C) 14271/2015 of HIGH COURT OF KERALA
DATED 12-05-2015

APPELLANT/PETITIONER:

1. MUSALIAR COLLEGE OF ENGINEERING & TECHNOLOGY
MUSALIAR COLLEGE PO
MALAYALAPPUZHA, PATHANAMTHITTA DISTRICT
PIN-689 653 REPRESENTED BY ITS CHAIRMAN P.I. SHERIEF
MOHAMMED

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR

RESPONDENTS:

1. INTELLIGENCE OFFICER
SQUAD NO.1 COMMERCIAL TAXDS
PATHANAMTHITTA PIN-689 645
2. COMMERCIAL TAX OFFICER
(WORKS CONTRACT &LUXURY TAX)
KOLLAM 691 013
3. THE DEPUTY COMMISSIONER
COMMERCIAL TAXES, MINI CIVIL STATION
PATHANAMTHITTA 689 645
4. THE INSPECTING ASSISTANT, COMMISSIONER
COMMERCIAL TAXES, MINI CIVIL STATION
PATHANAMTHITTA 689 645, C

BY SENIOR GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.1207 OF 2015

Dated this the 11th day of June, 2015

JUDGMENT

Shaji P. Chaly, J.

This writ appeal is filed by the petitioner challenging the judgment of the learned Single Judge in W.P.(C) No.14271 of 2015 dated 12.05.2015, by which the learned Single Judge modified the condition in Ext.P5 order passed by the 3rd respondent in Ext.P4 stay petition preferred in Ext.P3 statutory revision. The 3rd respondent as per the impugned order has granted stay of recovery of penalty on condition that the appellant herein remits 40% of the penalty demanded and furnish adequate security for the balance demand to the satisfaction of the assessing authority within the time frame fixed thereunder. Learned Single Judge has modified the condition of remittance to 30% of the penalty demanded. It is thus aggrieved by the said order, the appellant has preferred this writ appeal.

2. Heard the learned counsel for the appellant and the

learned Government Pleader for the respondents.

3. In fact the learned Single Judge did not interfere with the order impugned passed by the 3rd respondent but has only reduced the quantum fixed by the 3rd respondent from 40% to 30% of the penalty levied as per Ext.P2 order.

4. We have gone through the judgment of the learned Single Judge, exhibits appended along with the writ petition and the pleadings in the appeal memorandum. Learned Single Judge has passed the judgment taking note of the fact that Ext.P5 is a speaking order and also taking into account all the attendant circumstances as well as the amount of tax remitted by the appellant. Therefore, we are of the considered opinion that the judgment of the learned Single Judge does not suffer from any illegality or infirmity, and in that circumstances, we decline interference. However, the time granted by the learned Single Judge to pay 30% of the penalty demanded is extended by a period of two weeks from today.

Appeal fails and it is accordingly dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. to Judge

smv