

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

WA.No. 1865 of 2015 () IN WP(C).19253/2015

AGAINST THE JUDGMENT IN WP(C) 19253/2015 of HIGH COURT OF KERALA
DATED 03-07-2015

APPELLANT:

P J SOJAN
S/O. P.M. JOHN, PROPRIETOR,
PMJ WOOD INDUSTRIES, VAYATTUPRAMBA,
KANNUR DISTRICT – 670 581.

BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM
SRI.K.H.ANSAR

RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY ITS COMMISSIONER TO
DEPARTMENT OF COMMERCIAL TAXES,
SECRETARIAT, THIRUVANANTHAPURAM – 695 001.
2. THE ASSISTANT COMMISSIONER (KVAT) – 1,
DEPARTMENT OF COMMERCIAL TAXES,
SPECIAL CIRCLE, KANNUR – 678 011
3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
KANNUR – 675 011.

BY SENIOR GOVERNMENT PLEADER SRI. LIJU STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

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

W.A. No.1865 of 2015

Dated this the 20th day of August, 2015

JUDGMENT

Antony Dominic,J.

Appellant filed the writ petition challenging Ext.P3 assessment order under the KVAT Act and Ext.P5 demand notice.

2. By the judgment under appeal, learned Single Judge relegated the appellant to pursue statutory remedies. However, the learned Single Judge also ordered that the recovery proceedings will be deferred for a period of two months from 03.07.2015, when the judgment was rendered. It is this judgment which is under challenge before us.

3. We heard the learned counsel for the appellant and the learned Senior Government Pleader appearing for the respondents.

4. Admittedly against the assessment order in question, statutory remedy is available to the appellant. Though, according to the appellant, the question raised is covered, that does not entitle the appellant to approach this Court in a writ

petition, bypassing the statutory remedies.

5. In such circumstances, we see no illegality in the order passed by the learned Single Judge. Therefore, the appellant should pursue his statutory remedy if he wants to challenge the impugned order of assessment. Therefore, the writ appeal is dismissed.

At this stage, learned counsel for the appellant sought a direction to keep in abeyance recovery proceedings for a short period so that the appellant can move the appellate authority and seek interim orders. Taking note of the request made, we direct that the interim order passed by the learned Single Judge would remain in force for a further period of four weeks from today and it will be open to the appellant to seek further orders in the matter from the concerned appellate authority.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

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P.A. to Judge

smv