

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WA.No. 2071 of 2015 () IN WP(C).25879/2015

AGAINST THE JUDGMENT IN WP(C) 25879/2015 of HIGH COURT OF KERALA
DATED 21-08-2015

APPELLANT/APPELLANT:

M/S.ELLORA PAINTS PVT.LTD.
CHERTHALA, ALLEPPY
REPRESENTED BY ITS' MANAGING DIRECTOR
MR.VARGHESE ANTONY.

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

RESPONDENTS/RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES - 691 001, KOLLAM.
 2. ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE, COMMERCIAL TAXES, ALAPPUZHA - 688 001.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.N.RAVINDRAN
&
BABU MATHEW P.JOSEPH, JJ.**

W.A.No.2071 of 2015

Dated this the 18th day of September, 2015.

J U D G M E N T

P.N.Ravindran, J.

The appellant is the petitioner in W.P.(C).No.25879 of 2015 filed challenging Ext.P4 interim order passed by the Deputy Commissioner (Appeals) II, Commercial Taxes, Kollam. By that order, the Deputy Commissioner (Appeals) stayed the collection of the balance tax due from the petitioner for the assessment year 2012-2013 pending disposal of the appeal, subject to the condition that the petitioner shall remit 30% of the balance tax and interest demanded within three weeks from the date of receipt of the order and furnish security for the balance amount to the satisfaction of the assessing authority. By judgment delivered on 21.08.2015, a learned single Judge of this court allowed the writ petition in part and modified the condition regarding deposit of 30% of the balance tax assessed and directed deposit of the sum of ₹7 lakhs within one month. The learned single Judge also directed that the petitioner shall abide by all the other conditions stipulated by the appellate authority. The writ petitioner has filed this appeal seeking an unconditional order of stay.

2. After hearing learned counsel appearing for the appellant and the learned Government Pleader appearing for the Revenue, we are not inclined to interfere with the discretion exercised by the learned single Judge. By no stretch of imagination can it be said that the condition imposed by the learned single Judge is onerous or incapable of compliance. We therefore find no reason to interfere with the impugned judgment. However, having regard to the request made by the learned counsel appearing for the appellant we deem it appropriate to grant the appellant time till 15.10.2015 to pay the sum of ₹7 lakhs and to furnish security for the balance amount. We also deem it appropriate that in the event of the petitioner depositing the sum of ₹7 lakhs and furnishing security for the balance amount on or before 15.10.2015, the appellate authority shall endeavour to dispose of the appeal expeditiously and in any event within three months from 15.10.2015.

This writ appeal is disposed of as above.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P.JOSEPH
JUDGE

AV

/True Copy/

P.A to Judge