IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WA.No. 2012 of 2014 () IN WP(C).33253/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 33253/2014 of HIGH COURT OF KERALA DATED 10-12-2014

APPELLANT(S)/PETITIONER:

P.A.SHIHAB, AGED 33 YEARS
PARALIY HOUSE, CHENGAL, KALADY
ERNAKULAM DIST.

BY ADVS.SMT.K.P.SANTHI
SRI.RILGIN V.GEORGE

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA
REP BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695001.

2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, ERNAKULAM-682030

3. THE INTELLIGENCE OFFICE
COMMERCIAL TAXES, SQUAD NO II,
MATTANCHERRY - 683002.

4. THE COMMERCIAL TAX OFFICER-I
COMMERCIAL TAXES, ANGAMALY - 683 572.

5. THE SPECIAL TAHSILDAR
REVENUE RECOVERY, ALUVA-683 101.

BY DR.SEBASTIAN CHAMPAPPILLY, SPL.GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

....

W.A.No.2012 of 2014

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Dated this the 9th day of January, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

We have heard the learned counsel for the appellant on different aspects of the contentions raised challenging the decision of the learned single Judge refusing to interfere with the condition imposed by the statutory appellate authority while granting an interim order of stay of enforcement of recovery pending statutory appeal under the Kerala Value Added Tax Act, 2003. The Asst. Commissioner (Appeals) imposed a condition of remittance of 30% of the amount in dispute in appeal for availing the benefit of stay. Having looked into the nature of the contentions pending consideration in the appeal before Appellate Assistant Commissioner and the contents of Ext.P10 interlocutory order issued by the Appellate Assistant Commissioner granting stay on conditions, we think that the learned single Judge cannot be criticized in holding that the condition imposed while granting stay is reasonable. In discretionary jurisdiction, the learned single Judge has examined the matter and has concluded that there is no ground to interfere in exercise of writ jurisdiction. In this intra-court appeal under Section 5 of the High Court Act also, we do not find any ground to interfere with the judgment of the learned single Judge. This writ appeal, therefore, fails.

In the result, this appeal is dismissed in limine.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

jg