IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 1904 of 2015 (K)

PETITIONER(S):

THE STATE FARMING CORPORATION OF KERALA LTD.
FARM HOUSE, PB NO.13, VETTITHITTA P.O.
ALIMUKKU, PUNALUR, KOLLAM
PIN - 689 696 - REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADVS.SRI.K.ANAND (SR.)
SMT.LATHA KRISHNAN
SRI.M.N.RADHAKRISHNA MENON
SRI.JOSEPH SEBASTIAN (PARACKAL)

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR
KOLLAM. 689 001

2. INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAXES, KOTTARAKKARA- 683 695

3. THE COMMISSIONER, COMMERCIAL TAXES,
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
PUBLIC OFFICE BUILDING, VIKAS BHAVAN PO,
THIRUVANANTHAPURAM - 695 001.

4. THE TAHSILDAR,
PATHANAPURAM - 689 695

BY GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1904 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- TRUE COPY OF PROCEEDINGS DATED 7.4.2009

P2- TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE DEPUTY COMMISSIONER (APPEALS)

P3- TRUE COPY OF TRUE COPY OF ASSESSMENT ORDER DATED 28.10.2011

P4- TRUE COPY OF PETITION DATED 17.9.2012 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT

P5- TRUE COPY OF ORDER OF THE GOVERNMENT DATED 19.11.2014

P6- TRUE COPY OF DEMAND NOTICE DATED 17.11.2009

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

sou.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.1904 of 2015

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Dated this the 12th day of February, 2015

JUDGMENT

The petitioner who was aggrieved by an order imposing penalty for the assessment year 2009-2010 had approached the First Appellate Authority through a revision petition against the said penalty order. The said revision petition was however dismissed on account of the fact that the petitioner had not remitted the required amounts under the Kerala Legal Benefit Fund, as a condition for maintaining the revision petition. It is the case of the petitioner that thereafter, he had approached the Deputy Commissioner (Appeals), Kollam, and thereafter, the 3rd respondent, for a redressal of his grievances against the penalty order. Thereafter, the petitioner also approached the Government and, it is understood that the Government granted instalment facility to pay the dues under Ext.P1 order. Ext.P5 is the order of the Government. Not satisfied with the said order, the petitioner has approached this Court through the present writ petition.

2. I have heard Sri.K.Anand, the learned Senior counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned

Government Pleader for the respondents.

3. On as consideration of the facts and circumstances of the case as also the submissions made across the bar, I note that the revision preferred against Ext.P1 order, was rejected by the revisional authority only on the ground that the Kerala Legal Benefit Fund dues, to support the revision petition, had not been paid by the petitioner. Under the said circumstances, I directed the petitioner to effect a payment of the Kerala Legal Benefit Fund so as to maintain the revision petition before the said authority. It is now brought to my notice by the learned Senior counsel that the Kerala Legal Benefit Fund dues, to support the revision application against Ext.P1 order, has since been remitted by the petitioner. Taking note of the said submission, I direct the Deputy Commissioner, Commercial Taxes, Kollam, or any other competent authority appointed for the purpose of hearing the revision petition, to consider Ext.P2 revision, preferred by the petitioner against Ext.P1 order, within a period of two months from the date of receipt of a copy of this judgment. To enable the said authority to consider the revision application, the order earlier passed by the said authority, dismissing the revision for non-payment of Kerala Legal Benefit Fund, shall stand quashed. It is made clear that, pending reconsideration of the revision petition by the revisional

authority, as directed above, and communication of the order to be passed to the petitioner, the recovery steps for recovery of amounts under Ext.P1 order shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/