

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. 3945 of 2015 (P)

PETITIONER(S):

**C.S.PRAKASH,
M/S.SI ENGINEERS AND CONTRACTORS,
NO. II 411, POTTA JUNCTION,
POTTA PO, CHALAKKUDY DISTRICT.**

**BY ADVS.SRI.T.RAVIKUMAR
SMT.KAVYA P.PRASAD**

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER (I.B),
DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERI, ALUVA - 683 514.**
- 2. DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXEX,
MATTANCHERI - 682 002.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, MATTANCHERI,
COCHIN - 682 002.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

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

mbr/

WP(C).No. 3945 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1 : TRUE COPY OF THE ORDER DATED 20/12/2013.

EXHIBIT P2 : TRUE COPY OF THE ORDER DATED 8/5/2013.

EXHIBIT P3 : TRUE COPY OF THE REVISION FILED BY THE PETITIONER.

EXHIBIT P4 : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER.

EXHIBIT P5 : TRUE COPY OF THE ORDER DATED 25/7/2014.

EXHIBIT P6 : TRUE COPY OF THE NOTICE DATED 9/7/2014.

**EXHIBIT P7 : TRUE COPY OF THE CC NO. 18/2011 PENDING BEFORE THE KERALA
STATE CONSUMER DISPUTE REDRESSAL FORM (WITHOUT
ANNEXURS).**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.3945 of 2015
.....

Dated this the 12th day of February, 2015

JUDGMENT

Against Ext.P2 penalty order passed under the Kerala Value Added Tax Act, the petitioner had preferred Ext.P3 revision and Ext.P4 stay petition before the 2nd respondent. It would appear that the 2nd respondent considered the stay petition and passed Ext.P5 conditional order of stay directing the petitioner to remit 30% of the amount confirmed by Ext.P2 penalty order, as a condition for the grant of stay of recovery of the balance amounts. The petitioner who was dissatisfied with the said order approached this Court through W.P.(C).No.22175 of 2014, which was disposed granting the petitioner time to comply with the directions in Ext.P5 order and permitting him to pay the amount in two monthly instalments by paying the amounts on 25.09.2014 and 25.10.2014 respectively. It is submitted by counsel for the petitioner that the petitioner paid the 1st instalment of Rs.2,58,459/- on 25.09.2014 but owing to paucity of funds could not remit the 2nd respondent on 25.10.2014. The respondents therefore continued with the recovery action for recovery of the balance amount under Ext.P2 penalty order. It is under these circumstances, the petitioner has approached this Court through the present writ petition.

2. I have heard Smt.Kavya P.Prasad, for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that by paying the 1st instalment of Rs.2,58,459/- on 25.09.2014, the petitioner has substantially complied with the directions of this Court in the writ petition, in respect of the payments to be made pursuant to Ext.P5 conditional order of stay. I take note of the plea of financial hardship urged by the petitioner for not paying the 2nd instalment in time. I, therefore dispose the writ petition with the following directions:

- i. If the petitioner remits the further payment of Rs.2,58,459/- on or before 10.03.2015, then the same shall be taken to be in compliance with the requirements of Ext.P5 order passed by the 2nd respondent. On receipt of the said amount within the time stipulated in this judgment, the 2nd respondent shall proceed to hear the revision on merits in due course. The

recovery steps for recovery of the balance amount of penalty under Ext.P2 order shall be kept in abeyance till 10.03.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

