

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C) .No. 5032 of 2015 (D)

PETITIONER(S) :

HINDUSTAN PETROLEUM CORPORATION LTD.,
COCHIN REGIONAL OFFICE, KARSHAKA ROAD,
ERNAKULAM,
REPRESENTED BY ITS SENIOR REGIONAL MANAGER- UMA SHANKAR GKKV

BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA.

RESPONDENT(S) :

1. ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE II,
ERNAKULAM- 682 015.
2. VAT APPELLATE TRIBUNAL,
ERNAKULAM - 682 015,
REPRESENTED BY ITS SECRETARY.
3. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM - 682 015.
4. INSPECTING ASSISTANT COMMISSIONER (RECOVERY),
COMMERCIAL TAXES, ERNAKULAM, KOCHI - 30.

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST
RESPONDENT (AY-2002--03 (KGST) DATED 22/1/2010.
- EXT. P2: TRUE COPY OF THE ORDER OF THE FIRST APPELLATE AUTHORITY
IN STA NO.80/2010 DATED 19/7/2012.
- EXT. P3: TRUE COPY OF THE MODIFIED ASSESSMENT ORDER PASSED BY
THE 1ST RESPONDENT DATED 17/11/2012.
- EXT. P4: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 17/11/2012.
- EXT. P5: TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT
DATED 12/11/2014.
- EXT. P5 (A) : TRUE COPY OF THE REPLY FILED BY THE PETITIONER DATED
5/12/2014.
- EXT. P6: TRUE COPY OF THE SUO MOTU REVISIONAL ORDER PASSED BY
THE 3RD RESPONDENT DATED 6/12/2014.
- EXT. P7: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 31/1/2015.
- EXT. P7 (A) : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 31/01/2015.
- EXT. P8: TRUE COPY OF THE PRE-ASSESSMENT NOTICE ISSUED BY THE
1ST RESPONDENT DATED 28/1/2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5032 of 2015 (D)

.....
Dated this the 18th day of February, 2015

JUDGMENT

The petitioner, whose assessment for the assessment year 2002 - 2003 under the Kerala General Sales Tax Act, was completed by the 1st respondent by Ext.P1 assessment order, is aggrieved by the steps taken by the respondents for passing consequential orders pursuant to an order passed by the 3rd respondent, pending disposal of an appeal that he has preferred before the 2nd respondent Tribunal against the order passed by the 3rd respondent who invoked the suo motu revision power under Section 35 of KGST Act.

2. In the appeal before the tribunal, the contention of the petitioner is essentially that the suo motu revision power exercised by the 3rd respondent was illegal. While the said appeal is pending before the 2nd respondent Tribunal, the 1st respondent is taking steps to pass consequential orders, based on the order that is the subject matter of the appeal before the 2nd respondent Tribunal. It is aggrieved by the said action of the 1st respondent that the petitioner has approached this Court through the present writ petition.

3. I have heard Sri.K.I.Mayankutty Mather, learned counsel for the petitioner and Sri.Sudheesh Kumar, learned Government Pleader for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar and taking note of the fact that the appeal against Ext.P6 order of the 3rd respondent is presently under consideration by the 2nd respondent Tribunal, I dispose the writ petition with the following directions :

(i) The 2nd respondent Tribunal shall consider and pass order on Ext.P7 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

(ii) All further steps pursuant to Ext.P8 notice issued by the 1st respondent shall be kept in abeyance till such time as the 2nd respondent Tribunal passes orders, as directed above, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/18/02/