

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 5800 of 2014 (Y)

PETITIONER:

**MRS. MAHISHUMATH,
AGED 50 YEARS,
D/O.NUSAIBA BEEVI, RESIDING AT NM HOUSE,
KADAPPADINJATTATHIL, MURUNTHEL, PERINAD POST,
ANCHALUMMOODU, KOLLAM.**

**BY ADVS.SRI.T.M.RAMAN KARTHA
SRI.JOSEPH RONY JOSE
SMT.O.A.NURIYA**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY
DEPARTMENT OF COMMERCIAL TAXEX, GOVT OF KERALA
THIRUVANANTHAPURAM-695001.**
- 2. COMMERCIAL TAX OFFICER,
KUNDARA, KOLLAM DT., PIN 691501.**
- 3. DEPUTY TAHSILDAR (RR)
KOLLAM, KOLLAM CIVIL STATION POST, PIN 691013.**
- 4. VILLAGE OFFICER
THRIKKADAVOOR VILLAGE, KOLLAM DISTRICT, PIN 601001.**

*** Addl.5. IMPEADED:**

- * 5. M/S.ORKITCH FORGINGS PRIVATE LIMITED,
HAVING REGISTERED OFFICE AT ANCHALUMMOODU
PERUMPUZHA, KOLLAM,
REPRESENTED BY ITS MANAGING DIRECTOR SRI.M.NAZARUDDIN
NM HOUSE, KADAPPADINJATTATHIL, MURUNTHEL
PERINAD POST, ANCHALUMMOODU, KOLLAM.**

*** ADDL. R5 IS IMPEADED AS PER ORDER DATED 11/03/2014 IN IA
NO.3363/2014.
R1-R4 BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF M/S.ORKITCH FORGINGS PRIVATE LIMITED.

EXHIBIT-P2: TRUE COPY OF THE SIGNATORY DETAILS OF M/S.ORKITCH FORGINGS PRIVATE LIMITED.

EXHIBIT-P3: TRUE COPY OF THE AUDITED TENANCIAL STATEMENT DT.10.11.2009 OF M/S.ORKITCH FORGINGS PRIVATE LIMITED.

EXHIBIT-P4: TRUE COPY OF THE ORDER NO.32021207201/2008-09/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(A): TRUE COPY OF THE ORDER NO.32021207201/2008-09/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(B): TRUE COPY OF THE ORDER NO.32021207201/2009-10/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(C): TRUE COPY OF THE ORDER NO.32021207201/2009-10/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(D): TRUE COPY OF THE ORDER NO.32021207201/2010-11/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(E): TRUE COPY OF THE ORDER NO.32021207201/2010-11/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(F): TRUE COPY OF THE ORDER NO.32021207201/2011-12/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(G): TRUE COPY OF THE ORDER NO.32021207201/2011-12/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P4(H): TRUE COPY OF THE ORDER NO.32021207201/2013-14/DT 23.10.2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT-P5: TRUE COPY OF THE DEMAND NOTICE NO.2014/71/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(A): TRUE COPY OF THE DEMAND NOTICE NO.2014/69/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(B): TRUE COPY OF THE DEMAND NOTICE NO.2014/75/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(C): TRUE COPY OF THE DEMAND NOTICE NO.2014/49/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(D): TRUE COPY OF THE DEMAND NOTICE NO.2014/76/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(E): TRUE COPY OF THE DEMAND NOTICE NO.2014/73/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(F): TRUE COPY OF THE DEMAND NOTICE NO.2014/72/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(G): TRUE COPY OF THE DEMAND NOTICE NO.2014/74/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5(H): TRUE COPY OF THE DEMAND NOTICE NO.2014/70/2/300 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P6: TRUE COPY OF THE REPRESENTATION OF THE PETITIONER FILED BEFORE THE 2ND RESPONDENT.

EXHIBIT-P7: TRUE COPY OF THE MAHAZAR AND RECEIPTS ISSUED BY THE 4TH RESPONDENT ON 31.1.2014.

RESPONDENT(S)' EXHIBITS : NIL.

/TRUE COPY/

P.S.TO JUDGE

vmr.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 5800 of 2014

Dated this the 15th day of July, 2015

J U D G M E N T

Petitioner is one of the Director of M/s.Orkitch Forgings Private Limited and her husband was the Managing Director.

2. Petitioner challenges assessment order as well as the penalty order and consequential revenue recovery proceedings. The total amount demanded would come to around ₹3,00,000/-. Petitioner's case is that, she has never received any notice in the proceedings.

3. The proceedings would show that notice have been served on the partners. It appears that notice also have been served on the petitioner on 01.10.2013. One of the Directors of the Company who was received notice, responded to the notice stating that he has resigned from the Company and he is no longer having any interest with the Company. The matter as of now would disclose that the petitioner never took part in the proceedings. The petitioner's substantial grievance in the matter is an ultimate liability passed on petitioner's property by way of

recovery.

4. This Court is of the view that, an opportunity should be given to the petitioner in the proceedings. The petitioner submits that no challenge has been made as against the assessment order and penalty order so far by the Company and Company has become defunct from 28.12.2011.

5. Considering the facts and circumstances, the impugned orders are set aside and the following directions are issued:

- (i) The petitioner shall deposit ₹30,000/- being a portion of the amount due under the assessment order and penalty order within one month.
- (ii) Petitioner shall appear before the 2nd respondent on 24.08.2014 at 11.00 a.m.
- (iii) Thereafter, the 2nd respondent shall complete the exercise of assessment as well as the penalty proceedings within a further period of two months.
- (iv) If the petitioner fails to deposit the amount as above, the petitioner will not be entitled for the benefit of the judgment.
- (v) Revenue recovery proceedings shall be deferred in tune with

the above directions.

This writ petition is disposed of. Petitioner shall produce a copy of this judgment before the 2nd respondent.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

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