

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No.8445 of 2015 (E)

PETITIONER:

**M/S.POWEL AND BARTLETT,PRP TOWER,LINK ROAD,
KAYAMKULAM,REPRESENTED BY ITS PARTNER,
ASHOK KUMAR M.R.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENTS:

- 1. THE INTELLIGENCE OFFICER,SQUAD NO.11,
DEPARTMENT OF COMMERCIAL TAXES,
ALAPPUZHA AT CHENGANNUR-689121.**
- 2. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
ALAPPUZHA-688001.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.8445 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF JUDGMENT IN W.P.(C) NO.18648/14 OF THIS HON'BLE COURT.

EXT.P3: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT.

EXT.P4: COPY OF REVISION PETITION FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT.

EXT.P5: COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8445 of 2015
.....

Dated this the 18th day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P5 conditional order of stay passed by the 2nd respondent, in a stay petition filed along with the revision petition against an order of penalty that was imposed on the petitioner under the Kerala Value Added Tax Act for the assessment year 2013-2014. The challenge in the writ petition, against Ext.P5 order, is essentially that while passing the said order, the 2nd respondent did not exercise his discretion validly.

2. I have heard the learned counsel for the petitioner and 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 in Ext.P5 order, the 2nd respondent has considered the prima facie case of the petitioner on merits and has given reasons to support his findings that the petitioner is entitled only to conditional order of stay, and thereafter proceeded to demand 30% of the amounts confirmed against the petitioner, as a condition for the grant of stay of recovery of the balance amount. Inasmuch as I do not find any illegality or error in the exercise of discretion by the 2nd

respondent while passing Ext.P5 order, I am not inclined to interfere with the said order in these proceedings under Article 226 of the Constitution of India. Resultantly, I dismiss the writ petition in its challenge against Ext.P5 order.

Counsel for the petitioner would seek some time to comply with the directions in Ext.P5 order. Taking into account the plea of financial hardship urged on behalf of the petitioner, I grant the petitioner time till 30.03.2015 for complying with the direction in Ext.P5 order. Save for this limited modification, the writ petition in its challenge against Ext.P5 order is otherwise dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

