

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9098 of 2015 (J)

PETITIONER(S) :

**ABDUL SALAM.K, AGED 37 YEARS,
M/S.KALLANGAL METALS, PUTHENCruz, REPRESENTED BY
HIS POWER OF ATTORNEY HOLDER SMT.RUBIA ABDUL SALAM.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER, SECOND CIRCLE,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN-683 542.**
- 2. DEPUTY TAHSILDAR, (REVENUE RECOVERY),
KUNNATHNADU TALUK, PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN- 683 542.**
- 3. ASSISTANT COMMISSIONER (APPEALS), COMMERCIAL TAXES,
ERNAKULAM DISTRICT, PIN- 682 015.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 9098 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF APPELLATE ORDER DATED 17.01.2014.

EXHIBIT P2: COPY OF THE RECOVERY NOTICE DATED 29.01.2015.

**EXHIBIT P3: PHOTOCOPY OF THE RESTORED ASSESSMENT ORDER
DATED 20.06.2014.**

**EXHIBIT P4: PHOTOCOPY OF THE APPLICATION FILED BY THE PETITIONER
DATED 04.03.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.9098 of 2015

.....
Dated this the 23rd day of March, 2015

J U D G M E N T

Against Ext.P3 modified order of assessment, the petitioner has preferred Ext.P4 rectification application before the 1st respondent. The limited prayer of the petitioner in the writ petition is for a direction to the 1st respondent to consider and pass orders on Ext.P4 rectification application and to keep the recovery steps in abeyance pending said consideration by the 1st respondent .

2. I have heard the learned counsel for the petitioner and 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 find that in the present case, the petitioner had preferred an appeal against the original order of assessment for the assessment year 2012-2013. By Ext.P1 order, the appellate authority had remanded the matter back to the original authority for a fresh consideration after perusing the books of accounts of the petitioner. It would appear

that, pursuant to the remand order of the appellate authority, the 1st respondent issued a notice to the petitioner calling for the books of accounts. To the said notice, the petitioner filed a request for adjournment seeking one week time for production of books of accounts. Thereafter, the petitioner did not turn up before the 1st respondent for another four months. Consequently, the 1st respondent passed Ext.P3 order confirming the original order of assessment. The petitioner thereafter, preferred Ext.P4 rectification application for correcting the mistakes that crept into Ext.P2 order. It is seeking a direction to the 1st respondent, to dispose the said rectification application, that the petitioner is before this Court through the present writ petition. Inasmuch as the petitioner had by his own doing caused the delay that led to the 2nd respondent passing Ext.P3 order, a consideration of Ext.P4 rectification application by the 1st respondent, at this distance of time, can be ordered only subject to terms. Accordingly, I direct the petitioner to remit an amount of Rs.2,00,000/- on or before 20.04.2015, as a condition for the grant of stay of recovery of the balance amounts confirmed against the petitioner by Ext.P3 order, pending consideration by the 1st respondent of Ext.P4 rectification application preferred by the petitioner. The 1st respondent shall pass orders on Ext.P4 rectification application after hearing the petitioner within a period of two months from the date of receipt of

a copy of the judgment. The petitioner shall appear before the 1st respondent at 11 am on 23.04.2015 for a hearing in connection with the disposal of the rectification application directed above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

