

**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. 9139 of 2015 (N)**  
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**PETITIONER(S):**  
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**M/S. KMP TIMBER & SAW MILLS,  
P.M.ROAD, MUVATTUPUZHA, PIN-686661,  
REPRESENTED BY ITS PARTNER K.P.SAIRAJ.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI  
SMT.K.P.RANI**

**RESPONDENT(S):**  
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- 1. THE FAST TRACK ASSESSMENT TEAM,  
DEPARTMENT OF COMMERCIAL TAXES,  
HEADED BY INSPECTING ASSISTANT COMMISSIONER,  
MUVATTUPUZHA-686661.**
- 2. THE SALES TAX APPELLATE TRIBUNAL,  
DEPARTMENT OF COMMERCIAL TAXES,  
THEVARA, ERNAKULAM-682015.**
- 3. THE COMMERCIAL TAX OFFICER,  
DEPARTMENT OF COMMERCIAL TAXES,  
MUVATTUPUZHA-686661.**

**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:**

**PJ**

APPENDIX

PETITIONERS' EXHIBITS

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- P1: COPY OF THE ASSESSMENT ORDER BEARING NUMBER 23152267/02-03 DATED 18/3/10 FOR THE YEAR 2002-03 UNDER KGST ACT ISSUED BY THE R1 TO THE PETITIONER
- P1A: COPY OF THE ASSESSMENT ORDER BEARING NUMBER 23152267/03-04 DATED 19/3/10 FOR THE YEAR 2003-04 UNDER KGST ACT ISSUED BY THE R1 TO THE PETITIONER
- P1B: COPY OF THE ASSESSMENT ORDER BEARING NUMBER 23152267/04-05 DATED 19/3/10 FOR THE YEAR 2004-05 UNDER KGST ACT ISSUED BY THE R1 TO THE PETITIONER
- P2: COPY OF THE APPEAL DATED 8/7/10 FOR THE YEAR 2002-03 BY THE PETITIONER BEFORE THE R2
- P2A: COPY OF THE APPEAL DATED 8/7/10 FOR THE YEAR 2003-04 BY THE PETITIONER BEFORE THE R2
- P2B: COPY OF THE APPEAL DATED 8/7/10 FOR THE YEAR 2004-05 BY THE PETITIONER BEFORE THE R2
- P3: COPY OF THE DISMISSAL ORDER NO.TA.164/10 DATED 12/10/12 ISSUED BY THE R2 TO THE PETITIONER
- P3A: COPY OF THE DISMISSAL ORDER NO.TA.165/10 DATED 12/10/12 ISSUED BY THE R2 TO THE PETITIONER
- P3B: COPY OF THE DISMISSAL ORDER NO.TA.166/10 DATED 12/10/12 ISSUED BY THE R2 TO THE PETITIONER
- P4: COPY OF THE RESTORATION PETITION DATED 8/3/13 AGAINST THE ORDER OF THE R2 IN TA.NO.164/10 FILED BY THE PETITIONER BEFORE THE R2
- P4A: COPY OF THE RESTORATION PETITION DATED 8/3/13 AGAINST THE ORDER OF THE R2 IN TA.NO.165/10 FILED BY THE PETITIONER BEFORE THE R2
- P4B: COPY OF THE RESTORATION PETITION DATED 8/3/13 AGAINST THE ORDER OF THE R2 IN TA.NO.166/10 FILED BY THE PETITIONER BEFORE THE R2
- P5: COPY OF THE DELAY CONDONATION PETITION DATED 8/3/13 AGAINST THE ORDER OF THE R2 IN TA.NO.164/10 FILED BY THE PETITIONER BEFORE THE R2
- P5A: COPY OF THE DELAY CONDONATION PETITION DATED 8/3/13 AGAINST THE ORDER OF THE R2 IN TA.NO.165/10 FILED BY THE PETITIONER BEFORE THE R2

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**P5B: COPY OF THE DELAY CONDONATION PETITION DATED 8/3/13 AGAINST THE ORDER OF THE R2 IN TA.NO.166/10 FILED BY THE PETITIONER BEFORE THE R2**

**P6: COPY OF THE ORDER OF DISMISSAL OF DELAY CONDONATION PETITION NO.TA.164/10 TO 166/10 DATED 12/11/14 ISSUED BY THE R2 TO THE PETITIONER**

**RESPONDENTS' EXHIBITS**  
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**NIL.**

**/ TRUE COPY /**

**P.S. TO JUDGE**

**PJ**

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.9139 of 2015

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Dated this the 23<sup>rd</sup> day of March, 2015

**J U D G M E N T**

The challenge in the writ petition is against Ext.P6 order passed by the 2<sup>nd</sup> respondent Tribunal, in a restoration application filed by the petitioner for restoring appeals that were dismissed by the said Tribunal. It is the contention of the counsel for the petitioner that on the date when the delay condonation application in the restoration application was posted for hearing before the Tribunal, he had deputed a junior Advocate to represent him before the 2<sup>nd</sup> respondent Tribunal. Although, the said lawyer appeared before the Tribunal, on account of the fact that the said lawyer was not holding a vakkalath on behalf of the assessee, the 2<sup>nd</sup> respondent Tribunal refused to consider the plea for adjournment put forth by the said counsel, and proceeded to dismiss the delay condonation application as well as the restoration application.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, and in particular, the submission of counsel for the petitioner that the reasons given in

Ext.P6 order for rejecting the restoration application are wholly technical in nature, I quash Ext.P6 order and direct the 2<sup>nd</sup> respondent Tribunal to consider the restoration application, as also the delay condonation application, preferred by the petitioner afresh after hearing the petitioner. The 2<sup>nd</sup> respondent Tribunal shall pass fresh orders as directed within a period of three weeks from the date of receipt of a copy of this judgment, after hearing the petitioner. To enable the 2<sup>nd</sup> respondent tribunal to do this, I direct the petitioner or his authorised representative to appear before the 2<sup>nd</sup> respondent Tribunal at 11 am on 16.04.2015.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

mns

