

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10381 of 2015 (W)

PETITIONER:

**K.S. SANAL KUMAR,
CHELAKKAPPALLIL AGENCIES, KOTTAYAM.**

BY ADV. SRI.AJI V.DEV

RESPONDENT(S):

- 1. DEPUTY COMMISSIONER, COMMERCIAL TAXES,
COLLECTORATE, KOTTAYAM -686 002.**
- 2. INTELLIGENCE OFFICER, SQUAD NO.-III,
COMMERCIAL TAXES, PUBLIC LIBRARY BUILDING,
SASTHRI ROAD, KOTTAYAM -686 001.**
- 3. ASSISTANT COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE, COMMERCIAL TAXES, TAX COMPLEX,
KOTTAYAM -686 002.**
- 4. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, COLLECTORATE,
KOTTAYAM -686 002.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

APPENDIX

PETITIONERS EXHIBITS

- EXHIBIT P1- A TRUE COPY OF THE SHOP INSPECTION REPORT DATED 16/09/2014.
- EXHIBIT P2- A TRUE COPY OF THE PROCEEDINGS OF THE PENALTY DATED 29-11-2014.
- EXHIBIT P3- A TRUE COPY OF THE COMPUTATION SHEET SHOWING ACTUAL TOCK ANALYSIS FOR THE YEAR UPTO 16/09/2014.
- EXHIBIT P4- A TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE PETITIONER BY THE AO DATED 31/05/2007.
- EXHIBIT P5- A TRUE COPY OF THE REVISION PETITION FILED FOR THE YEAR 2014-15 DATED 13/02/2015.
- EXHIBIT P5(a)- A TRUE COPY OF THE STAY PETITION FILED FOR THE YEAR 2014-15 DATED 13/02/2015.
- EXHIBIT P5(b)- A TRUE COPY OF THE DELAY CONDONATION PETITION FILED FOR THE YEAR 2014-15 DATED 13/02/2015.
- EXHIBIT P6- A TRUE COPY OF THE RR NOTICE ISSUED BY THE 4TH RESPONDENT DATED 18/02/2015.
- EXHIBIT P7- A TRUE COPY OF THE STAY ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2014-15 DATED 06/03/2015.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 10381 of 2015 (W)

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Dated this the 31st day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P7 conditional order of stay passed by the 1st respondent, in a stay petition filed along with a revision petition against an order of penalty, that was confirmed against the petitioner. In the writ petition, the challenge against Ext.P7 order is essentially that, the 1st respondent while passing the said order did not exercise his discretion validly.

2. I have heard Sri.Aji.V.Dev, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I find that, in Ext.P7 order, the 1st respondent has considered the contentions of the petitioner on merits, and has given reasons for his finding that the petitioner is entitled only to a conditional order of stay. It is, thereafter, that he directed the petitioner to remit 30% of the penalty amounts confirmed against him as a condition for the stay of recovery of the balance amounts. On a perusal of Ext.P7 order, I do not find any illegality or erroneous exercise of

discretion occasioned by the 1st respondent, warranting an interference with the said order in these proceedings under Article 226 of the Constitution of India. Resultantly, the writ petition in its challenge against Ext.P7 order is dismissed.

The learned counsel for the petitioner submits that, the petitioner would require sometime to comply with the directions in Ext.P7 order. Taking note of the plea of financial hardship urged on behalf of the petitioner, I direct that, if the petitioner complies with the directions in Ext.P7 order on or before 20.04.2015, then the same shall be treated as compliance of Ext.P7 order and the 1st respondent shall proceed to consider the revision petition filed by the petitioner on merits. Save for this limited modification with regard to the time for complying with the directions in Ext.P7 order, the writ petition in its challenge against the said order, is otherwise dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/31/03/

