

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. 10540 of 2015 (N)

PETITIONER(S):

**M/S. CORAL SHELTERS AND BUILDERS (P) LTD.
33/1842, N.H. BYEPASS ROAD, VENNALA P.O.,
ERNAKULAM, REPRESENTED BY ITS MANAGING DIRECTOR
SRI.SUNIL K. SREEDHAR.**

**BY ADVS.SMT.INDU SUSAN JACOB
SRI.V.KSHAMUSUDHEEN**

RESPONDENT(S):

**1.THE ASSISTANT COMMISSIONER (WC)
COMMERCIAL TAXES, CLASS TOWER, OLD RAILWAY
STATION ROAD, ERNAKULAM 682 018.**

**2.THE DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM 682 015.**

**3.INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM 682 030.**

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:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2009-10 DATED 21.10.2014.

EXT.P2: COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 21.10.2014.

EXT.P3: COPY OF THE APPEAL DATED 19.11.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXT.P1 ORDER.

EXT.P4: COPY OF THE APPEAL DATED 19.11.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXT.P2 ORDER.

EXT.P5: COPY OF THE STAY PETITION DATED 19.11.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ALONG WITH EXT.P3 APPEAL.

EXT.P6: COPY OF THE STAY PETITION DATED 19.11.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ALONG WITH EXT.P4 APPEAL.

EXT.P7: COPY OF THE POSTING NOTICE ISSUED BY THE 2ND RESPONDENT.

EXT.P8: COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT AGAINST EXT.P3 APPEAL.

EXT.P9: COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT AGAINST EXT.P4 APPEAL.

EXT.P10: COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2009-10.

EXT.P11: COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2012-13.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10540 OF 2015 (N)

Dated this the 31st day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Exts.P8 and P9 orders that were passed by the 2nd respondent, in appeals that were preferred by the petitioner against Exts.P1 and P2 orders. The sole ground of challenge against Exts.P8 and P9 orders in the writ petition is that the said orders were passed by the 2nd respondent when, what was posted for hearing on the date on which the petitioner appeared before the 2nd respondent were the stay petitions. It is the contention of the petitioner that, in view of the fact that only the stay petitions were posted for hearing, he was not prepared to argue the appeals and therefore the 2nd respondent ought not to have proceeded to pass orders disposing the appeals itself.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader appearing 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 Exts.P8 and

P9 orders, the 2nd respondent has considered the contentions of the petitioner in the appeals preferred before the 2nd respondent, and has also taken note of the submission of counsel for the petitioner at the time of hearing. Although, it is a fact that the posting notices issued by the 2nd respondent would indicate that it was the stay petitions that were posted, and not the appeals themselves, I find that, inasmuch as the 2nd respondent has now passed final orders in the appeals, the petitioner has an effective alternate remedy against the said orders by way of filing a further appeal before the Appellate Tribunal, against Exts.P8 and P9 orders. Counsel for the petitioner would submit that, if he is given one month's time, he can prefer an appeal before the Appellate Tribunal against Exts.P8 and P9 orders. Taking note of the said submission, I dispose the writ petition with the following directions:

(i) If the petitioner prefers an appeal against Exts.P8 and P9 orders before the Appellate Tribunal, within a period of one month from today, then the Appellate Tribunal shall consider the said appeal, on merits, after hearing the petitioner, within a period of three months from the date of receipt of a copy of this judgment.

(ii) To enable the petitioner to prefer the appeal, as aforesaid, I stay the proceedings for

recovery of the amounts confirmed against the petitioner by Exts.P1 and P2 orders for a period of one month making it clear that the said stay against recovery shall cease to operate on the expiry of the period of one month.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp