

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

WP(C).No. 12754 of 2015 (T)

PETITIONER(S) :

**M/S.SUNRISE TSR FACTORY,
REP. BY ITS MANAGING PARTNER, K.O.MOHAMMED SHAH,
V/777, IDA, EDAYAR, MUPPATHADAM P.O.,
ERNAKULAM.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER,
NORTH PARAVOOR-683 515.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES DEPARTMENT, SALES TAX COMPLEX,
4TH FLOOR, PERUMANOOR P.O. , COCHIN-682 015.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
TRICHUR, IN CHARGE OF ASSISTANT COMMISSIONER(APPEALS),
ERNAKULAM-682 031.**
- 4. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY SR.GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE ANNUAL RETURN FILED FOR 2011-12 ON LINE ON 25/06/2012.
- EXT.P2: TRUE COPY OF THE ASSESSMENT ORDER NO.32150906897/11-12 CST/01.04.2014.
- EXT.P3: TRUE COPY OF THE DEMAND NOTICE NO.32150906897/11-12 DATED 01/04/2014.
- EXT.P4: THE TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED 16/08/2014.
- EXT.P5: TRUE COPY OF THE GROUNDS OF APPEAL IN EXT.P2.
- EXT.P6: THE TRUE COPY OF THE DETAILS OF INTERSTATE SALES EFFECTED TO M/S.MONOTONA TYRES LTD., MUMBAI ATTACHED TO THE GROUNDS OF APPEAL AS MARKED AS EXT.P5.
- EXT.P7: THE TRUE COPY OF THE STAY PETITION DATED 16/04/2014.
- EXT.P8: THE TRUE COPY OF THE STAY ORDER NO.KVATA-2425/2014 DATED 04/03/2015.
- EXT.P9: THE TRUE COPY OF 'E'DECLARATION FORM NO.241041094671118 DATED 22/08/2011 FROM MS/.IRM OFFSHORE AND MARINE ENGINEERS P.LTD., GUJARAT.
- EXT.P10: THE TRUE COPY OF 'E'DECLARATION FORM NO.241074634311118 DATED 13/08/2011 FROM M/S.IRM OFFSHORE AND MARINE ENGINEERS P.LTD., GUJARAT.
- EXT.P11: THE TRUE COPY OF THE SRO.804/2008.
- EXT.P12: THE TRUE COPY OF THE SRO.753/2011.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. Vinod Chandran, J.

W.P(C) No.12754 of 2015-T

Dated this the 28th day of April, 2015

JUDGMENT

The petitioner challenges Exhibit P8 order of the first appellate authority, which directed payment of 30% of the demand as per the assessment for stay of the total demand. The petitioner contends that the same has been passed without any application of mind.

2. Even going by the contentions raised by the petitioner, the petitioner's claim is with respect to exemption from production of 'C' Forms as per S.R.O.753/2011, which allegedly exempted inter-State sales turnover up to 30.11.2011 without production of 'C' Forms. Even then the liability to produce the 'C' Forms for the balance period survives on the petitioner. There is also no break-up of the inter-State transactions to consider the claim of the petitioner. In such circumstance, this Court does not find any reason to interfere with the discretion exercised by the first appellate authority in directing payment of 30% for stay of the entire demand. The petitioner, however, shall be granted one month's time from today to comply with the said order.

The writ petition is dismissed with the above direction.

Sd/-
K. Vinod Chandran,
Judge

vku/

[true copy]