

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 13055 of 2015 (F)

PETITIONER :

**C.V. JOBBY
PAVIZHAM JEWELLERS, G.B.ROAD,
PALAKKAD.**

**BY ADVS.SRI.HARISANKAR V. MENON
SRI.MAHESH V.MENON**

RESPONDENT(S) :

- 1. INTELLIGENCE OFFICER
SQUAD NO.VII, DEPARTMENT OF COMMERCIAL TAXES
PALAKKAD - 678 001.**
- 2. DEPUTY COMMISSIONER (INTELLIGENCE)
DEPARTMENT OF COMMERCIAL TAXES, EDAPPALLY,
ERNAKULAM, KOCHI - 24.**
- 3. KERALA VALUE ADDED TAX APPELLATE TRIBUNAL
NOORANI, PALAKKAD - 678 004
REPRESENTED BY ITS SECRETARY.**

BY GOVT. PLEADER SRI. R. RANJITH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 13055 of 2015 (F)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P-1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 19/07/2008.
- EXT.P-2: COPY OF ORDER ISSUED BY THE DY.COMMISSIONER (INTELLIGENCE) KANNUR CAMP ERNAKULAM DATED 31-8-2010.
- EXT.P-3: COPY OF SECOND APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 17-4-2013.
- EXT.P-4: COPY OF PETITION FILED BY THE 2ND RESPONDENT DATED 17-4-2013.
- EXT.P-5: COPY OF DELAY PETITION FILED BY THE 2ND RESPONDENT DATED 5-11-2014.
- EXT.P-6: COPY OF OBJECTION FILED BY THE PETITIONER DATED 16-3-2015.
- EXT.P-7: COPY OF OBJECTION FILED BY THE 2ND RESPONDENT DATED 15-3-2013.
- EXT.P-8: COPY OF ORDER ISSUED BY THE 3RD RESPONDENT DATED 20-3-2015.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.13055/2015**  
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Dated this the 24th Day of July, 2015

J U D G M E N T

This writ petition is arising out of an order passed by the Appellate Tribunal on a petition for condonation of delay filed by the State for condoning delay of 867 days in filing second appeal against the assessment for the year 2007-08.

2. This delay application was opposed by the petitioner stating that no sufficient cause has been shown for condoning delay. The Tribunal vide order dated 20/03/2015 produced as Ext.P8 reckoned the delay from the date of knowledge of Deputy Commissioner (Intelligence), the competent Authority, and treated that there is no delay in filing the appeal.

3. The learned counsel for the petitioner submits that since the State itself has filed the application with to condone the delay of 867 days, the Tribunal has erred in finding that there is no delay in the matter.

4. There is no dispute regarding the facts involved in the matter. As per the affidavit filed by

-:2:-

the second respondent along with the application for condonation of delay before the Tribunal, there is a delay of 867 days. The knowledge can only be attributed for the cause of delay and not for reckoning period of limitation. Knowledge has been now taken as the period to reckon the delay, that is legally erroneous. Of course, based on the knowledge, any delay could have been condoned, if such knowledge is not attributable to any wilful laches on the part of the Officials though, the reasons assigned for the delay have to be referred in the order itself.

5. In the light of the discussions above, the Appellate Tribunal is justified in allowing the application taking note of the knowledge of the Officials. Accordingly, I do not find any reason to interfere with the order passed by the Tribunal, though, on a different ground. Accordingly, the writ petition is dismissed. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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