

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No.13838 of 2015 (D)

PETITIONER:

**MAHESH.M,AGED 37 YEARS,
S/O.MANIYAN CHETTIYAR,PROPRIETOR,
M/S.HI-TECH SYSTEMS,KILLIPALAM,
THIRUVANANTHAPURAM.**

BY ADV. SRI.T.K.ANANDA KRISHNAN

RESPONDENT'S:

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
COMMERCIAL TAXES DEPARTMENT,
THIRUVANANTHAPURAM-695001.**
- 2. THE SECRETARY,
KERALA VALUE ADDED TAX,
AGRICULTURE INCOME TAX & SALES TAX,
APPELLATE TRIBUNAL,ADDITIONAL BENCH,
THIRUVANANTHAPURAM-695001.**
- 3. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES DEPARTMENT,
THIRUVANANTHAPURAM-695001.**
- 4. INTELIGENCE OFFICER,SQUAR NO.4,
COMMERCIAL TAXES DEPARTMENT,
THIRUVANANTHAPURAM-695001.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.13838 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ORDER OF THE 4TH RESPONDENT DATED 29.10.2012

**P2: TRUE COPY OF THE ORDER IN APPEAL NO.KVATA 379/2012
DATED 15.11.2013.**

**P3: TRUE COPY OF THE DELAY CONDONATION PETITION ALONG WITH THE
AFFIDAVIT OF THE SALES TAX PRACTITIONER.**

P4: TRUE COPY OF THE ORDER IN APPEAL T.A.(VAT) NO.412/2014.

RESPONDENT'S' EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 13838 of 2015

Dated this the 28th day of May, 2015

J U D G M E N T

The petitioner impugns Ext.P4 order passed by the Kerala Value Added Tax/Agricultural Income Tax & Sales Tax Appellate Tribunal dismissing application to condone delay.

2. Heard the learned Government Pleader and the learned counsel for the petitioner.

3. The petitioner's case before the Tribunal in affidavit filed in support of the delay condonation petition was that on account of the laches on the part of sales tax practitioner, the delay occurred. The delay was about 171 days.

4. There are certain laches on the part of the petitioner as observed by the Tribunal as the petitioner was aware of the order of the first Appellate Authority, nevertheless, this Court is of view, delay application has to be considered to subserve the interest of justice. In cases

there are laches and when put against the merits, laches shall be remedied by appropriate manner rather denying substantial justice.

4. Therefore, I am of the view, impugned order is liable to be set aside on condition that the petitioner remits cost of Rs.1000/- (Rupees one thousand only) with the Kerala Mediation Center. That shall be paid within a period of one week. If the petitioner produce the copy of the receipt before the Tribunal along with this judgment, the appeal shall be restored.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/