IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 14639 of 2015 (D)

PETITIONER:

USMAN K., PROPRIETOR,
M/S.HARIS DIARY, PERUMPILAVU,
THRISSUR, S/O.ABDULLAKUTTY, AGED 45 YEARS,
RESIDING AT KALLATTAYAL HOUSE,
NEAR ANSAR WOMENS' COLLEGE,
KARIKKAD P.O., PERUMPILAVU, THRISSUR.

BY ADVS.SRI.K.M.FIROZ,
SMT.M.SHAJNA,
SRI.S.KANNAN.

RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER-I,
COMMERCIAL TAXES, KUNNAMKULAM- 688 003.

2. ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
OFFICE OF THE ASSISTANT COMMISSIONER (APPEALS),
THRISSUR-688 001.

3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR- 688 001.

4. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
OFFICE OF THE ASSISTANT COMMISSIONER (APPEALS),
ERNAKULAM-682 015.

5. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
COMMERCIAL TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM- 695 001.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 14639 of 2015 (D)

APPENDIX

PETITIONERS' EXHIBITS:

P1:- A TRUE COPY OF THE ASSESSMENT ORDER DATED 29/07/2014 ALONG WITH DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT.

P2:- TRUE COPY OF THE APPEAL PETITION DATED 25/08/2014 PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P3:- TRUE COPY OF THE STAY PETITION DATED 25/08/2014 PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P4:- A TRUE COPY OF THE NOTIFICATION DATED 31/03/2005 SRO NO. 327 OF 2005 .

P5:- A TRUE COPY OF THE STAY ORDER DATED 04/12/2014.

P6:- A TRUE COPY OF THE JUDGMENT DATED 18/02/2015 IN WPC NO. 5047 OF 2015.

P7:- A TRUE COPY OF THE STAY ORDER DATED 30/03/2015 PASSED BY THE 3RD RESPONDENT.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

W.P. (C). No. 14639 of 2015

Dated this the 2nd day of June, 2015

J U D G M E N T

The petitioner challenges the conditional order passed in the stay application filed along with the appeal. The petitioner's main grievance is that, the stay order is not in tune with the decision of this Court in **Archana Agencies V. Commercial Tax Officer [2014 (2) KLT 715]**. The petitioner also assailed the revenue recovery steps attempted to be initiated by the Inspecting Assistant Commissioner based on the assessment order passed by the 1st respondent. The case of the petitioner is that, the Inspecting Assistant Commissioner has no appellate power under the Act. It is further submitted that, the condition is too onerous and exorbitant to be complied with.

2. I have gone through the impugned order. It is a well considered order stating reasons for imposing conditions. Therefore the petitioner's argument based on **Archana Agencies's case** is repelled.

3. The learned Government Pleader submits that, the Inspecting Assistant Commissioner is discharging functions of

the appellate authority as per the powers given by necessary orders.

4. In that view of the matter, the contention of the petitioner is also repelled. Taking note of all over the facts and also the arguments of the learned counsel for the petitioner, the condition is modified. The petitioner shall deposit ₹50,000/- and shall furnish security for the balance amount within one month from today.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn