

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 14713 of 2015 (L)

PETITIONER(S) :

M/S. YOGESH TRADING COMPANY,
KOTTACHERRY
KANHANGAD-671315 (HAVING REG. OFFICE AT KOTTAPPARA),
REPRESENTED BY ITS MANAGING PARTNER SHRI YOGESH PRABHU.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN.

RESPONDENT(S) :

1. THE INTELLIGENCE OFFICER (IB),
COMMERCIAL TAXES,
THIRUVANANTHAPURAM-695 001.
2. THE DEPUTY COMMISSIONER,
KVAT SPECIAL CIRCLE, COMMERCIAL TAXES,
KASARAGOD-671 121.
3. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE-673 001.
4. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE JUDGMENT IN WPC 10587/2015 DATED
09/04/2015.

EXHIBIT P2- TRUE COPY OF PROCEEDINGS PASSED BY THE 1ST
RESPONDENT DATED 31-03-2015.

EXHIBIT P3- TRUE COPY OF THE APPEAL SUBMITTED BEFORE THE 2ND
RESPONDENT.

EXHIBIT P4- TRUE COPY OF STAY PETITION SUBMITTED BEFORE THE 2ND
RESPONDENT.

EXHIBIT P4 (A) - TRUE COPY OF EARLY HEARING PETITION SUBMITTED
BEFORE THE 2ND RESPONDENT.

EXHIBIT P5- TRUE COPY OF COMMUNICATION FROM DEPUTY
COMMISSIONER, KASARAGOD VIDE NO. B-1815/2014 DATED
07/05/2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.14713 of 2015

Dated this the 21st day of May, 2015

JUDGMENT

The petitioner approached this Court challenging rejection of his application for compounding under Section 47 of KGST Act. The petitioner was also imposed with a penalty. The petitioner submits that as against rejection of the compounding, the petitioner has approached the third respondent by Ext.P3 revision. It is submitted that if the compounding is accepted in revision, the entire proceedings relating to the penalty will have to be dropped. Ext.P4 is the application for stay in revision.

2. The petitioner now threatened with recovery proceedings based on penalty proceedings. Considering the facts and circumstances, I am of the view, the writ petition can be disposed by directing the third respondent to consider

Ext.P3 revision filed by the petitioner within a period of two months after issuing notice to the petitioner. The recovery proceedings initiated against the petitioner pursuant to penalty shall be kept in abeyance till conclusion of the revision by the third respondent on condition that the petitioner remits Rs.2,00,000/- (Rupees two lakhs only) within a period of one month.

The amount to be deposited by the petitioner pursuant to the directions of this Court, can be appropriated by the Authority depending upon the outcome of the revision either towards compounding fee or towards penalty.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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