

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYASHTA, 1937

WP(C).No. 15345 of 2015 (P)

PETITIONER(S) :

**M/S.WELDING WORLD TRADING CO.,
37/3598, COLTON HOUSE, BANK ROAD,
KALOOR, COCHIN-682 017,
REPRESENTED BY ITS PROPRIETOR CARLTON OLIVER.**

BY ADV. SRI.A.KUMAR

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER (ENQUIRY),
O/O.THE DEPUTY COMMISSIONER OF COMMERCIAL TAXES,
MATTANCHERRY-682 002.**
- 2. THE BRANCH MANAGER,
SOUTH INDIAN BANK LTD., ARACKAL TOWER, JANATHA JUNCTION,
PALARIVATTOM, COCHIN-682 025.**

**R1 BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN
R2 BY ADV. SRI.GEORGE VARGHESE,S.C**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : TRUE COPY OF THE BANK GUARANTEE DATED 16-12-2009 ISSUED BY
THE 2ND RESPONDENT BANK.**

**P2 : TRUE COPY OF THE NOTICE DATED 12-01-2010 ISSUED BY
1ST RESPONDENT.**

P3 : TRUE COPY OF THE LETTER DATED 28-11-2013.

P4 : TRUE COPY OF THE PENALTY ORDER DATED 20-11-2014.

**P5 : TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT
DATED 24-12-2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.15345 of 2015

Dated this the 1st day of June, 2015

JUDGMENT

The petitioner impugns Ext.P4 penalty proceedings. The petitioner submits that the petitioner was not given an opportunity of hearing in the matter.

2. The proceedings would disclose that a notice was issued to the petitioner and directing them to produce accounts and other documents. However, the petitioner did not respond to the notice. The petitioner submits that they have not received any notice. It is submitted by the learned counsel for the petitioner that the petitioner received a notice(Ext.P2) in the year 2010 and they produced all the books of accounts and therefore, the authority ought to have verified the above fact before coming to the conclusion.

3. It appears that proceedings were initiated in the year 2009 and it is only concluded in the year 2014.

Considering the facts and circumstances, this Court is of the view that the matter requires reconsideration. In view of the above, Ext.P4 is set aside and the following directions are passed:

1. The petitioner shall appear before the first respondent on 24.6.2015 with all documents and books of accounts.
2. The petitioner shall renew the bank guarantee within three weeks and produce renewal letter before the first respondent.
3. The first respondent or such competent authority shall rehear the matter, only if the petitioner produces the renewed bank guarantee.
4. If the petitioner satisfies the above conditions, the matter shall be concluded within two months.
5. The petitioner shall produce a copy of this judgment along with the writ petition before the first respondent for compliance.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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