IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 15518 of 2015 (L)

PETITIONER :

YASER ARAFATH,
PROPRIETOR, HAMCO METALS, THAYYIL HOUSE,
MUNDUR, PALAKKAD.

BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENT(S):

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1. THE COMMERCIAL TAX OFFICER-IV,
   FIRST CIRCLE, PALAKKAD - 678 001.

2. THE ASSISTANT COMMISSIONER (APPEALS),
   DEPARTMENT OF COMMERCIAL TAXES,
   PALAKKAD - 678 001.

3. THE INSPECTING ASSISTANT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES,
   PALAKKAD -678 001.

BY SR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 15518 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE ASSESSMENT ORDER PASSED BY IST RESPONDENT FOR THE YEAR 2011-12 DATED 22/05/2014.

EXHIBIT-P2- TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 15/01/2015.

EXHIBIT-P3- TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 15/01/2015.

EXHIBIT-P4- TRUE COPY OF THE APPLICATION FOR ADJOURNMENT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 05/05/2015.

EXHIBIT-P5- TRUE COPY OF THE ACKNOLEDGMENT DATED 05/05/2015.

EXHIBIT-P6- TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED 05/05/2015.

EXHIBIT-P7- TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2011-12 DATED 29/08/2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.15518 of 2015

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Dated this the 27th day of May, 2015

JUDGMENT

The petitioner, impugned the order passed in the stay application filed along with the appeal as against the assessment order. The order is produced as Ext.P6. The Appellate Authority dismissed the stay application as the petitioner failed to appear even after adjournment.

I am of the view, when stay application is filed even if the petitioner was absent, the same has to be considered with the available materials. The petitioner submits that he is prepared to deposit 30% of the disputed tax.

Considering the facts and circumstances, this writ petition is disposed of with the following directions:

1. Ext.P6 is set aside.

2. The petitioner shall remit 30% of the demand within one month from today.
3. If the petitioner remits 30% of the demand, all recovery proceedings pursuant to the assessment order shall be kept in abeyance till the disposal of the appeal.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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