

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. 16233 of 2015 (D)

PETITIONER(S):

**K.P. KUNHIKAMMU,
M/S.JASEENA TRADERS, 36/860(1),
MANNARKKAD ROAD,
PALAKKAD.**

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

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
IIND CIRCLE, PALAKKAD-678 001.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD-678 001.**

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:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2011-2012 DATED 28-2-2015.
- P2 : TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2012-2013 DATED 30-1-2015.
- P3 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-2012 DATED 17-3-2015.
- P4 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-2013 DATED 17-3-2015.
- P5 : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-2012 DATED 17-3-2015.
- P6 : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-2013 DATED 17-3-2015.
- P7 : TRUE COPY OF THE INTERIM ORDER PASSED BY THE 2ND RESPONDENT FOR THE YEAR 2011-2012 DATED 7-5-2015
- P8 : TRUE COPY OF THE INTERIM ORDER PASSED BY THE 2ND RESPONDENT FOR THE YEAR 2012-2013 DATED 7-5-2015
- P9 : TRUE COPY OF THE JUDGMENT IN WPC.NO.13646 OF 2015 DATED 8-05-2015.
- P10 : TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY 1ST RESPONDENT FOR THE YEAR 2011-12 DATED 28-2-2015.
- P11 : TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 28-2-2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J.

W.P. (C). No. 16233 of 2015

Dated this the 2nd day of June, 2015

J U D G M E N T

The petitioner impugns orders passed in the stay application filed in an appeal against assessment orders for the years 2011-12 and 2012-13. The appellate authority directed the petitioner to pay 30% of the disputed amount within two weeks and also to furnish security for the remaining amount. The learned counsel for the petitioner submits that, the impugned order is not in accordance with the direction of this Court in **Archana Agencies V. Commercial Tax Officer [2014 (2) KLT 715]**

2. I have gone through the impugned order. The same is not in tune with the directions of this Court in **Archana's case** (cited supra). Nevertheless after hearing the petitioner and the learned Government Pleader I am of the view that, the petitioner may be given an opportunity to deposit 30% of the disputed tax amount excluding interest in three monthly installments starting from 15.06.2015. In that view of the matter this writ petition is disposed of, modifying the impugned order as follows:

“The petitioner shall remit 30% of the disputed tax

excluding interest in three monthly installments starting from 15.06.2015. The petitioner shall also furnish security for the remaining to the satisfaction of the assessing authority as directed by the appellate order.”

The recovery proceeding, if any, shall be kept in abeyance till the disposal of the appeal.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

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