

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 16470 of 2015 (G)

PETITIONER :

**M/S. LAL STEELS PVT. LTD.,
NIDA, KANJIKODE, PALAKKAD
REPRESENTED BY ITS MANAGING DIRECTOR
RATANLAL TANTIA.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V. MENON**

RESPONDENT(S) :

- 1. THE INTELLIGENCE OFFICER
SQUAD NO.I, ERNAKULAM (SPECIAL TEAM)
PALAKKAD - 678 001.**
- 2. KERALA VALUE ADDED TAX APPELLATE TRIBUNAL
PALAKKAD, REPRESENTED BY ITS SECRETARY-678 001.**

R1 & R2 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 16470 of 2015 (G)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 - COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DT.07.03.2008.**
- EXT. P2 - COPY OF APPELLATE ORDER ISSUED BY THE DEPUTY
COMMISSIONER (APPEALS) ERNAKULAM DT. 08.08.2012.**
- EXT. P3 - COPY OF APPEAL FILED BY THE PETITIONER BEFORE 2ND
RESPONDENT DT. 05.10.2013.**
- EXT. P4 - COPY OF DELAY PETITION FILED BY THE PETITIONER DT.09.12.2014.**
- EXT. P5 - COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DT.13.02.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.16470 of 2015

Dated this the 3rd day of June, 2015

J U D G M E N T

The petitioner has approached this Court challenging Ext.P5 order passed by the 2nd respondent in the delay condonation petition filed along with second appeal. The delay is of 288 days. In view of the dismissal of Ext.P4 delay condonation petition, the appeal was also dismissed.

2. The learned counsel for the petitioner submits that, the delay in obtaining legal advice has resulted in filing the appeal with delay. It is averred in the affidavit that, the tax consultants could not give an advice immediately and as the matter was complex and complicated, it was only after obtaining the opinion of a Senior Advocate, they filed the appeal.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader for the respondent.

4. Though delay is explained, but nevertheless that would indicate certain latches on the part of the petitioner. The petitioner now submits that in the light of the judgment of this Court in ***Kairali Steels & Alloys (M/s.)(P) Ltd., Palakkad v. Intelligence Officer Department of Commercial Taxes, Kottayam and Others [2015 (1) KHC 737]***, the issue is covered. It is also to be noted that, the stake is more than one crore. In such circumstances, substantial justice demand that the appeal shall be

entertained for consideration. However, latches on the part of the petitioner cannot be left with impunity.

Considering the facts and circumstances of the case, this writ petition is disposed of, directing the petitioner to deposit an amount of ₹50,000/- (Rupees Fifty thousand only) as cost under the head "0070-01-800-93 - Miscellaneous Receipts" within two weeks and produce a copy of the receipt of the said payment before the 2nd respondent. The 2nd respondent is directed to restore the appeal on file, on production of the said payment receipt by the petitioner. In view of the above, impugned order is set aside.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV