

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 17627 of 2015 (C)

PETITIONER(S) :

**M/S.MALANADU LATEX (INDIA) PVT. LTD.,
THIRUVILWAMALA, PAMPADY EAST.P.O., THRISSUR DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR, APPU JOSE.**

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

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER,
WADAKKANCHERRY, THRISSUR-680 582.**
- 2. THE ASST. COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM, KOCHI-15.**

BY SR.GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 17627 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT
DATED 03.03.2015.**

**EXHIBIT P2: COPY OF APPEAL FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 24.04.2015.**

**EXHIBIT P3: COPY OF ORDER ISSUED BY THE 2ND RESPONDENT
DATED 27.05.2015.**

**EXHIBIT P4: COPY OF ORDER ISSUED BY THE DEPUTY COMMISSIONER,
KOTTAYAM DATED 09.05.2013.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17627 of 2015

Dated this the 1st day of July, 2015

JUDGMENT

The petitioner impugns conditional order in the stay application passed by the Appellate Authority. The main grievance of the petitioner is that the issue is covered in favour of the petitioner and the Appellate Authority in respect of the different assessee has found that the assessee is entitled for input credit. Therefore, the condition is onerous and without any justification.

2. Learned Government Pleader submits that the order, which was relied by the petitioner and produced as Ext.P4 is subjected to second appeal before the Tribunal. It is further pointed out that the SRO relied therein for granting benefit of input credit is also by mistake.

As the matter stands now, the similar issue has been decided by the Appellate Authority. Taking note of the over all facts and circumstances, I am of the view, the condition shall be modified as a deposit Rs.3,00,000/- within one month. The petitioner shall abide by all other conditions.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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