

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 17886 of 2015 (I)

PETITIONER :

**CELESTIN TRADING COMPANY,
MUDAVOOR P.O., MUVATTUPUZHA,
REPRESENTED BY SRI.PIOUS LOUIS,
AGED 46 YEARS, PROPRIETOR.**

**BY ADVS.SRI.P.RAGHUNATH
SRI.PREMJIT NAGENDRAN**

RESPONDENTS :

- 1. COMMERCIAL TAX OFFICER
MUVATTUPUZHA**
- 2. ASSISTANT COMMISSIONER [APPEALS]
COM.TAXES, ERNAKULAM, 682015.**
- 3. INSPECTING ASSISTANT COMMISSIONER
MUVATTUPUZH.**

BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: COPY OF ASSESSMENT ORDER DT.16.11.2013 FOR 2012-13 PASSED BY FIRST RESPONDENT.

EXHIBIT-P2: COPY OF APPEAL MEMORANDUM FILED BEFORE SECOND RESPONDENT.

EXHIBIT-P3: COPY OF STAY PETITION FILED BEFORE SECOND RESPONDENT.

EXHIBIT-P4: COPY OF RR NOTICE DATED 15.11.2014.

EXHIBIT-P5: COPY OF STAY ORDER DATED 28.01.2015 RECEIVED ON 26.05.2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.17886 of 2015

Dated this the 16th day of June, 2015

J U D G M E N T

The petitioner challenges the assessment order passed by the 1st respondent for year 2012-13. They preferred Ext.P2 appeal and Ext.P3 stay application against the said order before the 2nd respondent. Consequently, Ext.P5 stay order was passed by the 2nd respondent directing the petitioner to pay 30% of the disputed tax.

2. The learned counsel for the petitioner submits that the subject matter of challenge before the appellate authority as against the assessment order is covered in favour of the petitioner in view of the judgment of the honourable Supreme Court in ***M.P. Agencies v. State of Kerala [79 VST 337]***.

3. In the light of the facts and circumstances of the case, I am of the view that, the condition imposed on the stay application has to be modified as an absolute stay without any condition. Hence, the appellate authority is directed to dispose of the appeal after adverting to the judgment referred to above within a period of four months from the date of receipt of a copy of this judgment.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.