

**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. 17972 of 2015 (V)**  
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**PETITIONER(S):**  
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**S. JANARDHANAN ACHARY,  
M/S. ARCHANA JEWELLERY,  
MAIN ROAD, KOLLAM.**

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

**RESPONDENT(S):**  
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- 1. THE COMMERCIAL TAX OFFICER,  
1ST CIRCLE, KOLLAM -691 001.**
- 2. THE INTELLIGENCE OFFICER (IB)-II  
DEPARTMENT OF COMMERCIAL TAXES,  
KOLLAM -691 001.**
- 3. DEPUTY COMMISSIONER,  
DEPARTMENT OF COMMERCIAL TAXES,  
KOLLAM -691 001.**

**BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.**

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

**rs.**

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

- |        |                                                                        |
|--------|------------------------------------------------------------------------|
| EXT.P1 | COPY OF ORDER ISSUED BY THE 2ND RESPONDENT<br>DATED 10-02-2015.        |
| EXT.P2 | COPY OF REVISION PETITION FILED BY THE PETITIONER<br>DATED 20-02-2015. |
| EXT.P3 | COPY OF ORDER ISSUED BY THE 3RD RESPONDENT<br>DATED 21/05/2015.        |
| EXT.P4 | COPY OF NOTICE ISSUED BY THE 4TH RESPONDENT<br>DATED 12-05-2015.       |

**RESPONDENT'S EXHIBITS:-**        **NIL.**

**//TRUE COPY//**

**PA. TO JUDGE**

**rs.**

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.17972 of 2015  
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Dated this the 16<sup>th</sup> day of June, 2015

**J U D G M E N T**

The petitioner challenged Ext.P1 penalty order passed by the 2<sup>nd</sup> respondent by filing Ext.P2 revision before the 3<sup>rd</sup> respondent. The petitioner also moved an application for stay against the enforcement of the penalty order. The revisional authority by detailed order, dismissed the stay application. While dismissing the stay application, the authority adverted to various contentions raised by the petitioner and came to a conclusion that, the petitioner is not entitled for stay.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader for the respondents.

3. Considering the facts and circumstances, I am of the view that, while entertaining a revision essentially the question has to be considered is whether there is any substance in the revision or not. If the petitioner is directed to remit the entire penalty, pending revision, that would frustrate ultimate relief to be granted in that revision. In that view of the matter, this Court finds that, dismissal of the stay application is unsustainable. However, interest of justice demands that, the petitioner should deposit 30% of the disputed penalty for obtaining a stay.

Accordingly, this writ petition is disposed of with the following directions :

Ext.P3 order is set aside. The petitioner shall remit 30% of the penalty demand and furnish security for the remaining amount to the satisfaction of the authority within three weeks from the date of receipt of a copy of this judgment.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE.**

AV