IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No. 18853 of 2015 (F)

PETITIONER:

M/S.GLADES ENGINEERING & CONTRACTING PVT. LTD.,
FIRST FLOOR, VAVAS BUILDING, THIRURKKAD,
MALAPPURAM, REPRESENTED BY C.P.SHAMSUDHEEN,
MANAGING DIRECTOR.

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

RESPONDENTS:
----

1. **COMMERCIAL TAX OFFICER (WC & LT),**
   DEPARTMENT OF COMMERCIAL TAXES,
   MALAPPURAM -682 511

2. **INTELLIGENCE OFFICER (IB)-II,**
   DEPARTMENT OF COMMERCIAL TAXES,
   KOZHIKODE- 673 001

3. **THE COMMISSIONER OF COMMERCIAL TAXES,**
   TAX TOWERS, KILLIPPALAM, THIRUVANANTHAPURAM-695 001

4. **INSPECTING ASST. COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES, MALAPPURAM- 682 511

BY GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 18853 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:- **COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DTD 30/11/2013**

P2:- **COPY OF ORDER ISSUED BY THE DEPUTY COMMISSIONER, MALAPPURAM DTD 30/8/2014**

P3:- **COPY OF REVISION PETITION FILED BY THE PETITIONER DATED 20/09/2014**

P4:- **COPY OF ARGUMENT NOTE FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 07/02/2015**

P5:- **COPY OF ORDER ISSUED BY THE 3RD RESPONDENT DATED 30/05/2015**

P6:- **COPY OF ORDER ISSUED BY THE IST RESPONDENT DATED 22/09/2014**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A. MUHAMED MUSTAQUE, J.
--
W.P.(C). No. 18853 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

The petitioner impugnes Ext.P5 order in a motion for stay filed in second revision. The revisional authority imposed condition of 30% of disputed penalty for stay. The main ground of the challenge is that, while imposing condition the revisional authority failed to advert into Ext.P6 assessment order completed in the year 2012-13. He further submitted that, if the same has been adverted, necessarily entire proceedings are liable to be dropped.

2. The impugned order is very reasoned order adverting to the various factual contentions raised by the petitioner. It is noted therein a prima facie case of suppression of evasion of tax is established.

3. I am of the view that the issue whether the petitioner's case as such has to be adverted finally while disposing the revision. The revisional authority imposed a condition taking into account of the over all facts as the revision being a second revision.

4. I do not find any infirmity with the impugned order. The petitioner further submits that, 30% of the demand is too onerous to comply with.

5. In the above circumstances, the impugned order is modified. The petitioner shall pay ₹7,00,000/- within one month and shall abide by other conditions.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn