

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. 18859 of 2015 (F)

PETITIONER(S):

**M/S.PREET FARM MACHINERIES,
VADAKKUMURY, KANNADI P.O., PALAKKAD,
REPRESENTED BY ITS MANAGING PARTNER N. BASHEER.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR,
SRI.V.K.SHAMUSUDHEEN.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER-IV,
1ST CIRCLE, PALAKKAD - 678 001.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD-678 001.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD - 678 001.**

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 - TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2011-2012 DATED 11.11.2014.
- P2 - TRUE COPY OF THE ASSESSMENT ORDER FOR THE MONTH OF APRIL 2014 PASSED BY 1ST RESPONDENT DATED 11.11.2014.
- P3 - TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-12 DATED 20.01.2015.
- P4 - TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE MONTH OF APRIL 2014 DATED 20.01.2015.
- P5 - TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-12 DATED 20.01.2015.
- P6 - TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE MONTH OF OF APRIL 2014 DATED 20.01.2015.
- P7 - TRUE COPY OF THE STAY ORDER PASSED BY THE 2ND RESPONDENT FOR THE YEAR 2011-12 DATED 24.02.2015.
- P8 - TRUE COPY OF THE STAY ORDER PASSED BY THE 2ND RESPONDENT FOR THE YEAR 2014-15 DATED 25.02.2015.
- P9 - TRUE COPY OF THE LETTER OF M/S.KERALA STATE INDUSTRIAL ENTERPRISES LIMITED DATED 26.03.2012.
- P10 - TRUE COPY OF THE LETTER OF M/S.KERALA AGRO INDUSTRIES CORPORATION LIMITED ISSUED TO THE 1ST RESPONDENT.
- P11 - TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2011-12 DATED 18.02.2015.
- P12 - TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2014-15 DATED 18.02.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

W.P.(C). No. 18859 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

The petitioner impugnes conditional orders passed in stay applications by the appellate authority.

2. Petitioner's case is that, the appellate authority passed assessment orders without properly considering his contentions and objections. He further submits that the orders are not speaking orders and Exts.P9 & P10 would show that there is no suppression of sales tax as alleged.

3. I am of the view that, for the purpose of imposing condition, prima facie appreciation of the facts are necessary. Having adverted to the nature of issue, the appellate authority in its discretion imposed condition for granting stay. There is no infirmity with such order.

4. However the learned counsel for the petitioner makes request for modifying the condition.

5. Considering the above, the impugned order is modified. The petitioner shall pay ₹1.5 lakhs within a period of one month. In view of the above, coercive steps, if any, shall be deferred in tune with the directions as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.