

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937**

**WP(C).No. 19443 of 2015 (E)**  
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**PETITIONER :**  
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**M/S.TCS TEXTILE PVT. LTD.  
40/6570-A, MG ROAD, ERNAKULAM  
KOCHI - 682 035, REPRESENTED BY ITS MANAGER,  
BHARATHRAM KR., AGED 30 YEARS**

**BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR  
SRI.P.GOPINATH  
SRI.P.BENNY THOMAS  
SRI.K.JOHN MATHAI  
SRI.JOSON MANAVALAN  
SRI.KURIAN THOMAS  
SRI.RAJAN P.KALIYATH**

**RESPONDENTS:-:**  
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- 1. STATE OF KERALA  
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,  
TAXES DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.**
- 2. THE ASSISTANT COMMISSIONER,  
SPECIAL CIRCLE II, COMMERCIAL TAXES,  
ERNAKULAM - 682 015.**
- 3. THE DEPUTY COMMISSIONER (APPEALS)  
COMMERCIAL TAXES, ERNAKULAM - 682 015.**

**BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXHIBIT P1: TRUE COPY OF THE ASSESSMENT ORDER DATED 30.04.2015 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT PERTAINING TO YEAR 2009-10 UNDER THE KVAT ACT.
- EXHIBIT P2: TRUE COPY OF THE APPEAL MEMORANDUM DATED 22.05.2015 (WITHOUT ANNEXURES) FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXHIBIT P3: TRUE COPY OF THE STAY PETITION DATED 22.05.2015 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE CONDITIONAL ORDER OF STAY DATED 05.06.2015 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.
- EXHIBIT P5: TRUE COPY OF THE CERTIFICATE DATED 22.06.2015 ISSUED TO THE PETITIONER BY THE ASSISTANT COMMISSIONER (CT), TIRUPPUR NORTH CIRCLE, TIRUPPUR.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.19443 of 2015

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Dated this the 29<sup>th</sup> day of June, 2015

**JUDGMENT**

The petitioner, impugning conditional order by the Appellate Authority, have approached this Court.

2. The petitioner's case is that the Appellate Authority had not adverted to their challenge in the appeal while imposing conditions. The Appellate Authority imposed the condition of 30% of the demand for staying the recovery.

3. The Appellate Authority while granting a stay need to advert the *prima facie* case of the parties. The impugned order is a reasoned order. I do not find any illegality in the order and the Appellate Authority is justified in imposing conditions.

Taking note of the fact that the total demand is comprised on interest is Rs.1,30,88,082/-, the impugned order can be modified on payment of Rs.75 lakhs. Accordingly, the impugned order is modified. The petitioner shall deposit Rs.75 lakhs before the respondents and shall abide by other conditions within one month.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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