

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(C).No. 20182 of 2015 (W)

PETITIONER:

**HI-LITE BUILDERS PVT. LTD.,
METROMAX JN., THONDAYAD BYPASS, NELLIKODE,
KOZHIKODE DISTRICT, REPRESENTED BY ITS DIRECTOR,
SRI.M.A.MEHABOOB**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR**

RESPONDENTS:

- 1. COMMERCIAL TAX OFFICER (WC),
JAWAHAR NAGAR, KOZHIKODE-673 006.**
- 2. THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
CHEROOTTY ROAD, KOZHIKODE-673 001.**
- 3. THE DY.TAHSILDAR (RR),
KOZHIKODE-673 004.**

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 20182 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 COPY OF ASSESSMENT ORDER DATED 11-10-11 OF THE 1ST RESPONDENT FOR 2008-09
- P2 COPY OF ORDER DATED 31-10-2012 ISSUED BY THE DY.COMMISSIONER (APPEALS, KOZHIKODE
- P3 COPY OF APPEAL MEMORANDUM AGAINST EXT.P2
- P4 COPY OF STAY PETITION FILED IN EXT.P3 APPEAL
- P5 COPY OF STAY ORDER DATED 12.03.2015 ISSUED BY THE 2ND RESPONDENT
- P6 COPY OF LEDGER ACCOUNT EVIDENCING CHEQUE NO.092003. DATED 11-04-2015 OF DHANALAKSHMI BANK,KOZHIKODE FOR RS.40.80 LAKHS
- P7 COPY OF THE SECURITY BOND DATED 12-05-2015
- P8 COPY OF LETTER DATED 29-05-2015 ISSUED BY THE 1ST RESPONDENT
- P9 COPY OF ORDER DATED 19-11-2011 OF THIS HON'BLE COURT IN R.P.NO.815 OF 2011 AGAINST THE JUDGMENT IN W.A.708/2011 DATED 7-06-11
- P10 COPY OF JUDGMENT DATED 16-02-2012 IN W.P.(C).NO.3900 OF 2012
- P11 COPY OF DEMAND NOTICE DATED 15-12-2011 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C).No.20182 of 2015

Dated this the 6th day of July,2015

J U D G M E N T

The petitioner, aggrieved by Ext.P2 order, filed appeal before the 2nd respondent along with a petition for stay. The 2nd respondent disposed of the stay petition directing the petitioner to pay one third of the amount disputed in appeal, after adjusting the amount of Rs.1,00,00,000/- and furnishing security for the balance amount within one month. The petitioner in compliance with the directions of the appellate authority after remitting 30% of the demand, executed a simple bond for the balance amount demanded under the assessment. This was rejected as per Ext.P8 stating that the security bond does not provide any surety for the disputed amount and also it does not support any solvency certificate of sureties as per Rules.

2. The petitioner relies the judgment of this Court as per Exts.P9 and P10 and submits that simple bond without sureties have been accepted in many occasions towards the

security for the balance amount. It is seen from the above judgments that this Court also in similar occasions satisfied with execution of simple bond without sureties.

3. Though the above judgment cannot be treated as a precedent for all the purposes, as it was a discretionary direction, after considering the nature of dispute, I am of the view, there is no other impediment in exercising similar discretion as made in Exts.P9 and P10 for the purpose of disposing the writ petition also .

4. Accordingly impugned order is set aside. Taking note of the fact that the petitioner is a registered dealer, and company, they are permitted to execute a simple bond without surety for the purpose of satisfying the appellate order. In the light of the above, the appellate Tribunal is also directed to dispose of the appeal within a period of three months.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/