

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 21314 of 2015 (L)

PETITIONER :

**KAMARUDEEN.M., AGED 45 YEARS,
DARUL KHAIRE CHEPPAD P. O., ALAPPUZHA**

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS :

- 1. DEPUTY COMMISSIONER
COMMERCIAL TAXES, KOLLAM - 691002**
- 2. THE INTELLIGENCE OFFICER(IB)-II
COMMERCIAL TAXES, COMMERCIAL TAXES COMPLEX,
ASRAMAM, KOLLAM 691002**
- 3. THE TAHSILDAR
TALUK OFFICE, KARTHIKAPPALLY, PIN 690514
HARIPAD P. O., ALAPPUZHA**
- 4. M/S.COMBINED FOODS ,
KOTTIYAM P.O., PIN 691571, KOLLAM DISTRICT**

R1 TO R3 BY GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN

R4 BY ADV. SRI.A.KUMAR

SRI.P.J.ANILKUMAR

SMTG.MINI(1748)

SRI.P.S.SREE PRASAD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE PENALTY ORDER PASSED BY THE 2ND RESPONDENT ALONGWITH THE NOTICE OF DEMAND DTD 17/6/2014.
- P2:- TRUE COPY OF THE PENALTY ORDER PASSED BY THE 2ND RESPONDENT ALONGWITH THE NOTICE OF DEMAND DTD 16/6/2014.
- P3:- TRUE COPY OF THE PENALTY ORDER PASSED BY THE 2ND RESPONDENT ALONGWITH THE NOTICE OF DEMAND DTD 4/8/2014.
- P4:- TRUE COPY OF THE PENALTY ORDER PASSED BY THE 2ND RESPONDENT ALONGWITH THE NOTICE OF DEMAND DTD 4/8/2014.
- P5:- TRUE COPY OF THE REVISION PETITION NO 158/2014 FILED BY THE PETITIONER DTD 7/7/2014 BEFORE THE 1ST RESPONDENT AGAINST EXT P1 PENALTY ORDER.
- P6:- TRUE COPY OF THE REVISION PETITION NO 159/2014 FILED BY THE PETITIONER DTD 7/7/2014 BEFORE THE 1ST RESPONDENT AGAINST EXT P2 PENALTY ORDER.
- P7:- TRUE COPY OF THE REVISION PETITION NO 210/2014 FILED BY THE PETITIONER DTD 18-8-2014 BEFORE THE 1ST RESPONDENT AGAINST EXT P3 PENALTY ORDER.
- P8:- TRUE COPY OF THE REVISION PETITION NO 211/2014 FILED BY THE PETITIONER DTD 18-8-2014 BEFORE THE 1ST RESPONDENT AGAINST EXT P4 PENALTY ORDER.
- P9:- TRUE COPY OF THE IA DTD 7/7/2014 FILED ALONGWITH EXT P5 REVISION PETITION.
- P10:- TRUE COPY OF THE INTERIM ORDER DTD 29/6/2015 PASSED IN REVISION PETITIONS NO 158/14,159/14,210/14 & 211/14
- P11: COPY OF THE DEMAND NOTICE FOR ARREARS DUE FROM 1-4-2008 OF RS. 9,63,070/- ALONG WITH THE DEMAND PRIOR TO ATTACHMENT OF LAND ISSUED BY THE R3 DT 28/5/2015.
- P12: COPY OF THE DEMAND NOTICE FOR ARREARS DUE FROM 1-04-2009 OF RS.9.92.880/- ALONG WITH THE DEMAND PRIOR TO ATTACHMENT OF LAND ISSUED BY THE R3 DT 28/5/2015.
- P13: COPY OF THE DEMAND NOTICE FOR ARREARS DUE FROM 1-4-2010 OF 11,37360/- ALONG WITH THE DEMAND PRIOR TO ATTACHMENT OF LAND ISSUED BY THE R3 DT 28/5/2015.
- P14: COPY OF THE DEMAND NOTICE FOR ARREARS DUE FROM 1-4-2011 OF 5,82,860/- ALONG WITH THE DEMAND PRIOR TO ATTACHMENT OF LAND ISSUED BY THE R3 DT 28/5/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.21314 of 2015

Dated this the 19th day of August, 2015

JUDGMENT

The petitioner, challenging a conditional order in the stay application filed in revision petitions as against the penalty orders, has approached this Court. The petitioner claims that he is a Coolie and he is not engaged in any business. The Authority found that the petitioner is engaged in the sale of Ice Cream without taking registration. The Authority obtained details from the fourth respondent, the supplier and made the assessment and imposed penalty.

2. This Court enquired through the Tahsildar, Karthikapilly to enquire about the means of the petitioner and veracity of the claim. It has come out that the petitioner sells the Ice Cream in a cart and he earns by the sale of 'Ice Cream'. It is also reported that the petitioner's income is around Rs.24,000/- per annum. It is also stated that the petitioner has transferred the property in favour of his minor children recently.

3. The learned counsel for the fourth respondent submits that the fourth respondent used to supply the Ice Cream to the petitioner.

In view of the above, I am not entering into the merits of this issue. This Court of the view that the conditional order has to be modified as payment of Rs.2 lakhs in two equal instalments. The first instalment shall be paid on or before 15.9.2015 and the second instalment shall be paid on or before 15.11.2015. The petitioner shall abide by all other conditions.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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