IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

W.P(C).No. 21459 of 2015 (F)

PETITIONER:

SRI SHAJAN JOSEPH, AGED 48 YEARS,
MANAGING DIRECTOR, M/S. COCHIN GLASS HOUSE (P) LTD
35/891, THAMMANOM, COCHIN 682 018.

BY ADV. SRI.K.J.VINCENT (MUNDAMVELI)

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
TAXES DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001.

2. THE ASSISTANT COMMISSIONER
SPECIAL CIRCLE III, C.T COMPLEX, COCHIN 682 015.

3. THE DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, C.T COMPLEX
COCHIN 682 015.

4. THE INSPECTING ASSISTANT COMMISSIONER
DEPARTMENT OF COMMERCIAL TAXES, CIVIL STATION
KAKKANAD, COCHIN 682 020.

BY SR.GOVT. PLEADER, SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.21459/15(F)

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT.P1. COPY OF THE MONTHLY RETURN FOR 12/2014 BEARING NO.320704/WR01/6881/2014 DATED 18.2.15 FILED BY THE PETITIONER.

EXHIBIT.P2. COPY OF THE ORDER NO.32071355188/2014-15/DECEMBER 2014 DATED 9.2.15 OF THE ASSISTANT COMMISSIONER SPECIAL CIRCLE 111, ERNAKULAM.

EXHIBIT.P3. COPY OF THE APPEAL FILED BY THE PETITIONER DATED 24TH MARCH 2015 BEFORE THE THIRD RESPONDENT.

EXHIBIT.P4. COPY OF THE EARLY HEARING PETITION DATED 24.3.15 FILED BEFORE THE 3RD RESPONDENT.

EXHIBIT.P5. COPY OF THE DEMAND NOTICE SERVED ON THE PETITIONER DATED 10.4.15 BY THE 4TH RESPONDENT.

EXHIBIT.P6. COPY OF THE STAY ORDER PASSED IN KVATA NO.1030/2015 DATED 27.6.15 BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS: Nil

//TRUE COPY//

PA TO JUDGE

PtK/

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.21459 of 2015

Dated this the 21st day of July, 2015

JUDGMENT

The petitioner has approached this Court impugning conditional order passed in an appeal as against assessment.

2. The grievance of the petitioner is that, the petitioner has submitted the return after the assessment order and paid the tax of ₹88,413/- and also claimed IPT credit for ₹2,34,492/-. The same has not been taken into account, while imposing condition in the application for stay.

3. The appellate authority in fact considered the petitioner's claim of remittance of the amount as above and claim of the IPT, nevertheless imposed the condition of ₹3 lakhs towards the stay.

4. Considering the facts and circumstances, this Court is of the view that, though the appellate authority justified in imposing condition, nevertheless, the quantum of amount demanded in conditional stay appears to be exorbitant. Accordingly, the conditional order is modified. The petitioner shall deposit an amount of ₹50,000/- (Rupees Fifty thousand only) within two weeks from today. It is made clear that, the petitioner shall abide by all other conditions in the impugned order.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV