

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

WP(C).No. 21621 of 2015 (C)

PETITIONER(S) :

**SAJEENA BEEVI, AGED 41 YEARS
W/O.M.KABEER, MULAMOOTTIL HOUSE (KANDATHIL),
EZHAMKULAM, NEDUMON P.O., ADOOR,
PROPRIETOR, M/S.S.B.AGENCIES, NEDUMON P.O., ADOOR.**

BY ADV. SRI.S.NIDHEESH

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER,
ADOOR- 691 523.**
- 2. THE DEPUTY COMMISSIONER (APPEALS)-II,
COMMERCIAL TAX DEPARTMENT, KOLLAM- 691 001.**

BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

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

Msd.

WP(C).No. 21621 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE ASSESSMENT ORDER DATED 30.04.2015.

EXHIBIT P2: TRUE COPY OF THE DEMAND DATED 30.05.2015.

EXHIBIT P3: TRUE COPY OF THE APPEAL MEMORANDUM.

EXHIBIT P4: TRUE COPY OF THE STAY PETITION.

**EXHIBIT P5: TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT
DATED 26.06.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 21621 of 2015

Dated this the 21st day of July, 2015

J U D G M E N T

The petitioner has approached this Court impugning the conditional order passed by the appellate authority in a stay petition. The main challenge in this writ petition is on the ground that, the appellate authority having found that the petitioner has made out a prima facie case ought not have ordered conditional order of stay. It is further submitted that condition imposed is too onerous to comply with.

2. In respect of first contention of the petitioner, the appellate authority in fact had prima facie appraisal of the facts for the purpose of entertaining the appeal and to consider the issue in detail during final hearing of appeal. That cannot be considered as acceptance of the petitioner's contentions.

3. However, considering the facts and circumstances, I am of the view that, the condition has to be modified. There will be a direction of the petitioner to deposit ₹3,00,000/- within 3 weeks. Petitioner shall also comply with all other conditions in the

impugned order. The appeal shall be disposed of within 4 months after notice to the petitioner. To enable the petitioner to comply with modified order, revenue recovery proceedings shall be deferred for a period of 3 weeks.

This writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn