

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 22008 of 2015 (A)

PETITIONER:

**M/S. RAJKUMAR IMPEX PVT. LTD.
PALAMUKKU, KANNANANLLOOR, KOLLAM,
REPRESENTED BY ITS GENERAL MANAGER SRI.TAMIL SELVAM.**

**BY ADVS.SRI.S.SURESH BABU (CHERUNNIYOOR)
SRI.AJI V.DEV
SRI.SUSHANTH.J.**

RESPONDENT(S):

- 1. DEPUTY COMMISSIONER (APPEALS)-I
COMMERCIAL TAXES, TAX COMPLEX, ASRAMAM
KOLLAM-691 012.**
- 2. THE ASSISTANT COMMISSIONER (ASSMT)
COMMERCIAL TAXES, SPECIAL CIRCLE, KOLLAM-691 012.**
- 3. THE INTELLIGENCE OFFICER,
(INVESTIGATION BRANCH), TAX COMPLEX, ASRAMAM,
KOLLAM-691 012.**

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : ORIGINAL ASSESSMENT ORDER DATED 29-7-2011 FOR THE YEAR 2006-07
ISSUED BY 2ND RESPONDENT UNDER CST ACT, 1956.**

**P2 : PRE ASSESSMENT NOTICE DATED 30-3-2012 ISSUED BY THE 2ND RESPONDENT
PROPOSING RE-ASSESSMENT UNDER RULE 6(7) OF THE CST KERALA RULES 1957.**

**P3 : REPLY DATED 9-4-2012 FILED BY THE PETITIONER, TO THE PRE ASSESSMENT
NOTICE DATED 30-3-2012.**

**P4 : PRINTOUT FROM TINXSYS WEB SITE EVIDENCING THE STATUS OF DELHI
DEALER M/S.ADITYA SALES CORPORATION WHO ISSUED 'F' FORMS.**

**P4(A) : PRINTOUT FROM TINXSYS WEB SITE EVIDENCING THE STATUS OF DELHI
DEALER M/S.RAMRAJ & CO., WHO ISSUED 'F' FORMS.**

**P5 : LETTER DATED 10-4-2012 ISSUED BY THE PETITIONER TO THE DELHI DEALER
M/S.ADITYA SALES CORPORATION WHO ISSUED 'F' FORMS.**

**P5(A) : LETTER DATED 10-4-2012 ISSUED BY THE PETITIONER TO THE DELHI DEALER
M/S.RAMRAJ & CO. WHO ISSUED 'F' FORMS.**

P6 : APPLICATION DATED 20-4-2014 OF THE PETITIONER, UNDER RTI ACT 2005.

**P7 : REVISED NOTICE DATED 13-2-2014 OF THE 3RD RESPONDENT UNDER SECTION
67(1) OF THE KVAT ACT 2003.**

**P8 : OBJECTION DATED 17-3-2014 FILED BY THE PETITIONER TO PENALTY NOTICE
DATED 13-2-2014**

**P9 : PENALTY ORDER DATED 16-8-2014 ISSUED BY THE 3RD RESPONDENT
INTELLIGENCE OFFICER.**

**P10 : REVISION PETITION DATED 4-10-2014 FILED BY THE PETITIONER BEFORE THE
DEPUTY COMMISSIONER, KOLLAM.**

**P10(A) : STAY PETITION DATED 4-10-2014 FILED BY THE PETITIONER BEFORE THE
DEPUTY COMMISSIONER, KOLLAM.**

**P11 : STAY ORDER DATED 8-12-2014 ISSUED BY THE DEPUTY COMMISSIONER,
KOLLAM.**

**P12 : REASSESSMENT NOTICE UNDER CST ACT DATED 18-2-2015 ISSUED BY THE
2ND RESPONDENT ASSESSING AUTHORITY**

**P13 : OBJECTION DATED 13-3-2015 FILED BY THE PETITIONER TO THE
REASSESSMENT NOTICE DATED 18-2-2015.**

**P14 : REASSESSMENT ORDER DATED 16-3-2015 ISSUED BY THE 2ND RESPONDENT
UNDER THE CST ACT.**

P15 : APPEAL DATED 24-3-2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P15(A) : STAY PETITION DATED 24-3-2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P16 : STAY ORDER DATED 19-6-2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

/TRUE COPY/

P.S.TO JUDGE

vmr.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.22008 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

The petitioner impugning conditional order in the stay application filed in an appeal as against recovery based on assessment has approached this Court.

2. The main contention of the petitioner is that, the assessment is barred by limitation. The assessment is for the year of 2006-07. The same was completed on 16.03.2015. The notice also appears to have been issued on 18.02.2015.

3. Considering the question of legality of the assessment itself, I am of the view that, the petitioner is entitled for absolute stay. Accordingly, the conditional order is modified as an absolute stay against recovery.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.