

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 22673 of 2015 (H)

PETITIONER :

**CHITTOOR AGENCIES, AGED 31 YEARS,
BHARATH GAS DEALER, STADIUM COMPLEX,
KOLLAM.(REPRESENTED BY MANAGING PARTNER KRISHNA KUMAR T.S.)**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKANNAN NAIR
SMT.V.PSEENA DEVI**

RESPONDENTS :

- 1. COMMERCIAL TAX OFFICER,
IST CIRCLE, KOLLAM-691 001.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM-691 001.**
- 3. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KOLLAM-691 001.**

**R1 TO R3 BY SENIOR GOVERNMENT PLEADER
SMT. SHOBA ANNAMMA EAPPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE DEATH CERTIFICATE DTD.7.2.2013 IN RESPECT OF LATE SRI.K.THULASI.
- P2 : COPY OF THE LETTER OF APPROVAL DTD.3.4.2013 ISSUED BY M/S. BPCL.
- P3 : COPY OF THE ASSESSMENT ORDER NO.32020600994/05/04/14 DTD.4.9.2014 ISSUED BY THE 1ST RESPONDENT.
- P4 : COPY OF THE PENALTY ORDER NO.32020600994/04/05/06/14 DTD.4.9.2014 ISSUED BY THE 1ST RESPONDENT.
- P5 : COPY OF THE MONTHLY RETURN FOR 4/14 FILED BY PETITIONER ON 9.10.2014.
- P6 : COPY OF THE MONTHLY RETURN FOR 5/14 FILED BY THE PETITIONER ON 10.10.2014.
- P7 : COPY OF THE MONTHLY RETURN FOR 6/14 FILED BY PETITIONER ON 16.10.2014.
- P8 : COPIES OF THE PURCHASE STATEMENT FOR 4/14 TO 6/14 UPLOADED ALONG WITH RETURNS.
- P9 : COPY OF THE APPEAL AGAINST EXT.P3 FILED BEFORE THE 2ND RESPONDENT ON 20.10.2014.
- P9(A) : COPY OF THE STAY APPLICATION FILED IN EXT.P9 APPEAL.
- P9(B) : COPY OF THE APPLICATION FOR URGENT HEARING FILED IN EXT.P9 APPEAL.
- P10 : COPY OF THE REVISION AGAINST EXT.P4 FILED BEFORE THE 3RD RESPONDENT ON 20.10.2014.
- P10(A) : COPY OF THE STAY APPLICATION FILED IN EXT.P10 REVISION.
- P10(B) : COPY OF THE APPLICATION FOR URGENT HEARING FILED IN EXT.P10 REVISION.
- P11 : COPY OF THE STAY ORDER DTD.23.6.2015 IN KVATA (KLM) 947/14 ISSUED BY THE 2ND RESPONDENT.
- P12 : COPY OF THE STAY ORDER DTD.23.6.2015 IN RP 248/14 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 22673 of 2015

Dated this the 28th day of July, 2015

J U D G M E N T

The petitioner has approached this Court impugning the conditional order passed in appeal and revision. Petitioner is an LPG dealer under BPCL. It appears that there was some dispute among the partners with respect to the dealership, consequently resulted delay in filing return. Petitioner submits that, after the assessment order they have filed return and the liability is only ₹80,000/-. Petitioner also submits that penalty proceedings are illegal since the entire dealings of the petitioner has been accounted.

2. The question to be considered is only whether the condition imposed by the authorities was proper or not, for granting stay. The matter is now pending before the appellate authority and revisional authority.

3. This Court do not find any infirmity with the conditional order imposed by the appellate and revisional authority while exercising the jurisdiction for granting stay.

4. However, taking note of the fact that petitioner being an LPG dealer and nature of issue involved, this writ petition is

disposed of by modifying the conditional order as follows:

- (i) The petitioner shall remit ₹1,00,000/- towards assessment order and another ₹1,00,000/- towards penalty order within 3 weeks from today.
- (ii) The petitioner shall abide by all other conditions in the order impugned.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn