

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 23080 of 2015 (H)

PETITIONER(S):

**ANOOP THARAKAN, THARAKAN AGENCIES,
KONAMMOCHI, THRISSUR.**

**BY ADVS.SRI.ANIL D. NAIR,
SRI.R.SREEJITH,
SMT.ROSIE ATHULYA JOSEPH,
SMT.O.A.NURIYA,
KUM.SOUMYA PRAKASH.**

RESPONDENTS:-

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, KUNNAMKULAM,
THRISSUR - 680 503.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THRISSUR - 680 001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. TRUE COPY OF THE NOTICE DATED 02.03.2012 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P2. TRUE COPY OF THE REPLY LETTER DATED 21.07.2012 SENT BY THE PETITIONER.
- EXHIBIT P3. TRUE COPY OF THE NOTICE DATED 26.12.2014 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P4. TRUE COPY OF THE REPLY DATED 27.01.2015 SENT BY THE PETITIONER.
- EXHIBIT P5. TRUE COPY OF THE ORDER DATED 07.05.2015 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P6. TRUE COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE SECOND RESPONDENT.
- EXHIBIT P7. TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT.
- EXHIBIT P8. TRUE COPY OF THE ORDER DATED 10.07.2015 ISSUED BY THE SECOND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 23080 of 2015

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner impugning conditional order in stay application filed in appeal as against the assessment has approached this Court. By the conditional order the petitioner was directed to remit 30% of the disputed amount. The petitioner's case is that the proceedings are time barred and cannot be enforced. Therefore, the order is unsustainable.

2. The learned government Pleader submits that notice is issued within five years covered by the judgment of the Division Bench of this Court in W.A.No.1184/2013.

3. It is to be noted this is a conditional order in stay application and not in appeal and the appellate authority can verify the question of limitation. I am not expressing any thing on merit regarding the question of limitation.

4. Taking note of the fact that the nature of contention, the conditional order is modified as payment of Rs.1,00,000/-. This shall be done within a period of one month. The petitioner shall abide by all other conditions.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/

The amount mentioned in the 3rd line at page 2 of the judgment dated 30.7.2015 in W.P.(C) No.23080/2015 is suo motu modified as “Rs. 75,000/- (Rupees Seventy Five Thousand only)” as per order dated 20.8.2015 in W.P.(C) No.23080/2015.

Registrar (Judicial)