

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 24615 of 2015 (B)

PETITIONER(S):

**ANSARIMON, AGED 36 YEARS,
THYKKOOTTATHIL MANNIL FURNITURE MART, CHITTAR,
PATHANAMTHITTA DISTRICT.**

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

RESPONDENT(S):

- 1. DEPUTY COMMISSIONER (APPEALS)-1,
COMMERCIAL TAXES, TAX COMPLEX, ASRAMAM
KOLLAM - 691 012.**
- 2. THE AGRICULTURAL INCOME TAX &
COMMERCIAL TAX OFFICER,
RANNY - 686 101.**
- 3. THE INTELLIGENCE OFFICER,
SQUAD NO.1, COMMERCIAL TAXES,
PATHANAMTHITTA - 689 645.**
- 4. THE DEPUTY TAHSILDAR [REVENUE RECOVERY],
PATHANAMTHITTA - 689 001.**

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- A TRUE COPY OF THE PENALTY ORDER DATED 26.07.2012 PASSED BY THE 3RD RESPONDENT FOR THE YEAR 2011-12.**
- P2- A TRUE COPY OF THE ASSESSMENT ORDER PASSED FOR THE YEAR 2011-12 DATED 29.05.2014.**
- P3- A TRUE COPY OF THE APPEAL DATED 01.09.2014 FILED BY THE PETITIONER FOR THE YEAR 2011-12 BEFORE THE 1ST RESPONDENT.**
- P3[A]- A TRUE COPY OF THE STAY PETITION DATED 05.09.2014 FILED BY THE PETITIONER FOR THE YEAR 2011-12.**
- P4- A TRUE COPY OF THE PENALTY ORDER DATED 25.06.2013 PASSED BY THE 3RD RESPONDENT FOR THE YEAR 2012-13.**
- P5- A TRUE COPY OF THE ASSESSMENT ORDER PASSED FOR THE YEAR 2012-13 DATED 19.07.2014.**
- P6- A TRUE COPY OF THE APPEAL DATED 01.09.2014 FILED BY THE PETITIONER FOR THE YEAR 2012-13 BEFORE THE 1ST RESPONDENT.**
- P6[A]- A TRUE COPY OF THE STAY PETITION DATED 05.09.2014 FILED BY THE PETITIONER FOR THE YEAR 2012-13.**
- P7- A TRUE COPY OF THE STAY ORDER[CONDITIONAL] DATED 21.11.2014 ISSUED BY THE 1ST RESPONDENT.**
- P8- A TRUE COPY OF THE RATION CARD IN RESPECT OF PETITIONER'S FAMILY DATED 01.08.2012.**
- P9- TRUE COPIES OF PETITIONER'S FATHER'S MEDICAL REPORTS.**
- P10- A TRUE COPY OF PETITIONER'S MENTALLY RETARDED BROTHER'S IDENTITY CARD DATED 10.05.2010.**
- P11- A TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED TO THE PETITIONER FOR 2011-12 DATED 16.07.2015.**
- P11[A]- A TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED TO THE PETITIONER FOR 2012-13 DATED 16.07.2015.**
- P12- A TRUE COPY OF THE PETITION FOR URGENT HEARING OF APPEAL FILED FOR THE YEAR 2011-12 DATED 24.07.2015.**

msv/

WP(C).No. 24615 of 2015 (B)

**P12[A]- A TRUE COPY OF THE PETITION FOR URGENT HEARING OF APPEAL FILED
FOR THE YEAR 2012-13 DATED 24.07.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.24615 of 2015

Dated this the 13th day of August, 2015

JUDGMENT

The petitioner, challenging assessment order, filed appeal before the second respondent. In the appeal, a conditional stay order has been passed directing the petitioner to remit 30% of the demand.

2. The petitioner submits that he is unable to raise the amount and the appeal may be directed to be disposed of at the earliest.

3. The petitioner narrates the pathetic conditions. It is also submitted that he has no turnover for assessment and therefore, he would be fully exonerated for payment of tax if the appeal is disposed of. It is to be noted that the Appellate Authority passed Ext.P7 order as early as on 21.11.2014. If the petitioner has any grievance, necessarily, ought to have challenged then at there. However, in order to by pass such order, he cannot seek a relief of an early disposal of the appeal.

However, taking note of the financial constraints of the petitioner, this Court is of the view that the conditional order has to be modified as payment of Rs.50,000/- in three instalments. The first instalment shall be paid on or before 25.8.2015, the second instalment shall be paid on or before 25.9.2015 and the third instalment shall be paid on or before 25.10.2015. If the petitioner complies with the above conditions, recovery proceedings shall be deferred till the disposal of the appeal.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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