IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

WP(C).No. 25359 of 2015 (T)

PETITIONER(S):

T N SATHYAVAN,
PROPRIETOR, HIGHNESS ENGINEERING WORKS,
VALAVANAD,
POLLETHAI.P.O,
ALAPPUZHA-688 567.

BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS.

RESPONDENT(S) :
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1. THE INTELLIGENCE OFFICER (INVESTIGATION BRANCH),
COMMERCIAL TAXES, CIVIL STATION ANNEX,
ALAPPUZHA-688 011.

2. THE AGRICULTURAL INCOME TAX & COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, CIVIL STATION ANNEX,
ALAPPUZHA-688 011.

3. THE DEPUTY COMMISSIONER (INTELLIGENCE),
TAX TOWER, KARAMANA P.O, THIRUVANANTHAPURAM-695 002.

4. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, RAMACHANDRA COMPLEX,
NEAR VAZHICHERRY BRIDGE, ALAPPUZHA-688 001.

5. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, AMABALAPPUZHA, ALAPPUZHA-688 001.

BY SENIOR GOVERNMENT PLEADER SMT.SHOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT. P1 TRUE COPY OF ANNUAL RETURN E-FILED ON 31-07-2010 IN KVATIS FOR THE YEAR 2009-10.

EXT. P2 TRUE COPY OF THE RETURN E-FILED ON 24-10-11 IN KVATIS FOR THE YEAR 2010-11.

EXT. P3 TRUE COPY OF PENALTY ORDER FOR THE YEAR 2009-10 DATED 17-04-15 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

EXT. P4 TRUE COPY OF PENALTY ORDER FOR THE YEAR 2010-11 DATED 17-04-15 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

EXT. P5 TRUE COPY OF JUDGMENT IN WP(C)16487 OF 2015 DATED 03-06-2015 OF THIS HON'BLE COURT.

EXT. P6 TRUE COPY OF REVISION PETITION DTD 02-07-2015 FOR THE YEAR 09-10 BEFORE 4TH RESPONDENT.

EXT. P7 TRUE COPY OF REVISION PETITION DTD 02-07-15 FILED FOR THE YEAR 10-11 BEFORE 4TH RESPONDENT.

EXT. P8 TRUE COPY OF RR NOTICES DTD 27-06-15 ISSUED U/S.7 & 34 OF THE RR ACT BY 5TH RESOPONDENT TO THE PETITIONER.

EXT. P9 TRUE COPY OF RR NOTICES DTD 27-06-15 ISSUED U/S.7 & 34 OF THE RR ACT BY 5TH RESOPONDENT TO THE PETITIONER.

EXT. P10 TRUE COPY OF HEARING NOTE DTD 22-7-15 REQUESTING ABSOLUTE STAY FOR THE YEAR 2009-10.

EXT. P11 TRUE COPY OF HEARING NOTE DTD 22-07-2015 REQUESTING ABSOLUTE STAY FOR THE YEAR 10-11.

EXT. P12 TRUE COPY OF CBI REPORT DTD 06-11-13 SUBMITTED BEFORE THE HON'BLE CBI COURT, ERNAKULAM.

EXT. P13 TRUE COPY OF THE COMMON CONDITIONAL STAY ORDER DATED 25-07-15 FOR THE YEAR 2009-10 & 10-11.

EXT. P14 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 02-07-2015 IN WP(C)19843 OF 2015.

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 25359 of 2015

Dated this the 20th day of August, 2015

JUDGMENT

The petitioner challenging the conditional order in revision against penalty order proceedings has approached this Court. The petitioner's main case is that the Revisional Authority did not advert to the petitioner's main contentions.

2. In fact, the Appellate Authority, though adverted to the contentions, neverthless, for imposing conditions did not state any reasons. The Revisional authority is expected to state reasons for imposing conditions. This Court in ***Archana Agencies Vs. Commercial Tax Officer*** [2014(2) KLT 715], held that if condition is being imposed, the Revisional Authority is bound to state reasons for imposing conditions.

3. In view of the above, the impugned order is set aside and the matter shall be re-considered, after notice to the petitioner within a period of one month. Till the consideration of stay application as above, the revenue recovery proceedings shall be deferred.

The writ petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

bpr