

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 33145 of 2014 (P)

PETITIONER(S):

**P.A. IBRAHIM, AGED 61 YEARS
M/S.MUSAMI POLUTARY FARM, PUNNAPADAM, ELVAMPADAM P.O.
PALAKKAD DISTRICT.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENT(S):

**1. INTELLIGENCE OFFICER (IB)
DEPRMENT OF COMMERCIAL TAXES
MATTACHERRY AT MINI CIVIL STATION ALUVA-683 121.**

**2. DEPUTY COMMISSIONER
DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1.TRUE COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED
21/4/2014.

EXT.P1(A).TRUE COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED
21/4/2014.

EXT.P2.TRUE COPY OF REVISION PETITION FILED BY THE PETITIONER DATED
21/5/2014.

EXT.P2(A).TRUE COPY OF REVISION PETITION FILED BY THE PETITIONER
DATED 21/5/2014.

EXT.P3.TRUE COPY OF STATEMENT FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DATED 21/5/2014.

EXT.P3(A).TRUE COPY OF STATEMENT FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 29/10/2014.

EXT.P4.TRUE COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED
5/11/2014.

EXT.P4(A).TRUE COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED
5/11/2014.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33145 OF 2014 (P)

Dated this the 5th day of January, 2015

J U D G M E N T

The petitioner is a poultry farmer. In the writ petition, Exts.P4 and P4(a) orders passed by the 2nd respondent, in the stay petitions preferred by the petitioner along with the revision petitions against Exts.P1 and P1(a) penalty orders for the assessment years 2008-09 and 2009-10, are impugned. The facts in the writ petition would reveal that, against the orders of penalty, the petitioner had preferred a revision petition with stay petitions before the 2nd respondent and in Exts.P4 and P4(a) orders, the 2nd respondent had granted a conditional stay of recovery of the penalty amounts confirmed against the petitioner, subject to the petitioner paying 30% of the amount demanded, and furnishing security to the satisfaction of the Assessing authority for the balance amount .

2. I have heard the learned Government Pleader who would point out that in Exts.P4 and P4(a) orders, the 2nd respondent has considered the prima facie case projected by the petitioner and come

to a conclusion that the petitioner is entitled to only a conditional stay. It is in particular pointed out that the 2nd respondent found that the petitioner had not produced documents to substantiate his contentions on merits and this is the reason why an absolute stay could not be granted by the 2nd respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that in Exts.P4 and P4 (a) orders, the 2nd respondent has adverted to the contentions of the petitioner in the revision application, and also the submissions made at the time of hearing, when the petitioner had filed an argument note before the 2nd respondent. It was after considering the prima facie case that the 2nd respondent found that the petitioner was entitled only to a conditional order of stay and directed the petitioner to pay 30% of the amount demanded as a condition for the grant of stay. I do not find any reason to interfere with Exts.P4 and P4(a) orders of the 2nd respondent, where the said respondent has considered the merits of the case of the petitioner as well as the plea of financial hardship while passing the orders. Resultantly, I refrain from interfering with Exts.P4 and Ext.P4(a) orders save to the limited

extent of granting the petitioner three weeks' time from the date of receipt of a copy of this judgment to effect payment of the amounts directed in Exts.P4 and P4(a) orders.

With these directions, the writ petition is disposed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp