

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 33290 of 2015 (I)

PETITIONER:

**EUROTECH MARITIME ACADEMY,
XXXVIII/3492, VAKILS BUILDING,
OPP. TVS KALOOR, KOCHI - 682 017,
REPRESENTED BY ITS FINANCE CONTROLLER.**

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

RESPONDENT(S):

- 1. ADDITIONAL COMMISSIONER OF INCOME TAX (TDS),
ERNAKULAM - 682 018.**
- 2. INCOME TAX APPELLATE TRIBUNAL,
ERNAKULAM - 682 030.**

BY SRI.K.M.V.PANDALAI, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE PENALTY ORDER DT. 26/9/2013 FOR THE A.Y.2010-11.
- P2: TRUE COPY OF THE PENALTY ORDER DT. 26/9/2013 FOR THE A.Y.2011-12.
- P3: TRUE COPY OF THE PENALTY ORDER DT. 26/9/2013 FOR THE A.Y.2012-13.
- P4: TRUE COPY OF THE ORDER DT. 27/2/2015 FOR THE A.Y.2010-11 OF THE COMMISSIONER OF INCOME TAX (APPEALS).
- P5: TRUE COPY OF THE ORDER DT. 27/2/2015 FOR THE A.Y.2011-12 OF THE COMMISSIONER OF INCOME TAX (APPEALS).
- P6: TRUE COPY OF THE ORDER DT. 27/2/2015 FOR THE A.Y.2012-13 OF THE COMMISSIONER OF INCOME TAX (APPEALS).
- P7: TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2010-11.
- P8: TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-12.
- P9: TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13.
- P10: TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT FOR THE YEAR 2010-11.
- P11: TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT FOR THE YEAR 2011-12.
- P12: TRUE COPY OF THE STAY PETITION FILED BEFORE THE SECOND RESPONDENT FOR THE YEAR 2012-13.
- P13: TRUE COPY OF THE COMMON ORDER DT. 9/10/2015 OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 33290 of 2015

Dated this the 2nd day of November 2015

JUDGMENT

The challenge in the writ petition is against Ext.P13 order passed by the 2nd respondent Tribunal, in a stay petition filed along with appeals for the assessment years 2010-11 and 2012-13. By the said order, the 2nd respondent Tribunal had directed the petitioner to effect the payment of Rs.30,00,000/- by 31.10.2015, Rs.20,00,000/- by 30.11.2015 and Rs.20,00,000/- on 31.12.2015 as a condition for grant of stay against the recovery of amounts confirmed against the petitioner by the assessment orders. In the writ petition the limited prayer of the petitioner is for enlargement of time, to comply with the directions of the Tribunal. Counsel for the petitioner pleads financial hardship and submits that he would be able to discharge the entire liability as per Ext.P13 order by March 2016.

2. I have heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the Income Tax Department.

3. On a consideration of the facts and circumstances of the case and taking into account the plea of financial hardship raised by the petitioner, I am of the view that the interests of justice would be served by modifying the terms in Ext.P13 order and directing the petitioner to pay the amount of Rs.70,00,000/- (Rupees Seventy lakhs only) as directed in Ext.P13 order, in the following manner:-

Rs.15,00,000/- (Rupees fifteen lakhs only) each in four equal and successive monthly installments, commencing from 16.11.2015 and an amount of Rs.10,00,000/- (Rupees ten lakhs only) by 15th March 2016.

If the petitioner pays the aforesaid amount as directed in this judgment, the same shall be treated as in compliance with the direction in Ext.P13 order. The petitioner shall produce the copy of this writ petition along with the copy of this judgment before the 2nd respondent Tribunal, and also report the payments made by him pursuant to this judgment before the 1st respondent Assessing Officer.

The writ petition is disposed as above

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/