

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 35107 of 2014 (K)

PETITIONER(S) :

**S.ANZIL,
PROPRIETOR, B.H.EQUIPMENTS, KOTTAKKAL HOUSE,
DHAVALAKUZHY, MAYYANAD, KOLLAM - 691 303.**

**BY ADVS.SRI.R.PREM SANKAR
SRI.B.PREMOD**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER,
CHATHANNUR - 691 572.**
- 2. THE INTELLIGENCE OFFICER,
SQUAD NO.III, KOLLAM- 691 001.**
- 3. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, KOLLAM - 691 001.**
- 4. THE VILLAGE OFFICER,
MAYYANAD VILLAGE, KOLLAM - 691 303.**
- 5. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM- 691 001.**

BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: THE TRUE COPY OF THE PROCEEDINGS INITIATED BY THE INTELLIGENCE OF OFFICER SQUAD NO. III, COMMERCIAL TAXES, KOLLAM PERTAINING TO THE BUSINESS FOR YEARS 2009 - 2010.

EXHIBIT P2: THE TRUE COPY OF THE PROCEEDINGS INITIATED BY THE INTELLIGENCE OF OFFICER SQUAD NO. III, COMMERCIAL TAXES, KOLLAM PERTAINING TO THE BUSINESS FOR YEARS 2010 - 2011.

EXHIBIT P3: THE TRUE COPY OF THE APPEAL MEMORANDUM PREFERRED AGAINST ORDER NO. CR 22/2009-10 ISQ III, DATED 27/08/2012 SEEKING TO SET ASIDE THE PENALTY OF RS.13,18,163/- LEVIED UNDER SECTION 67 (1) FOR THE YEAR 2009 - 2010.

EXHIBIT P4: THE TRUE COPY OF THE APPEAL MEMORANDUM PREFERRED AGAINST ORDER NO. CR 22/2009 - 10 ISQ III, DATED 27/08/2012 SEEKING TO SET ASIDE THE PENALTY OF RS.17,27,866/- LEVIED UNDER SECTION 67(1) OF KVAT ACT 2010 - 2011.

EXHIBIT P5: THE TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER THE REVENUE RECOVERY ACT AGAINST THE PETITIONER TOWARDS REALIZATION OF PENALTY IMPOSED UNDER EXT.P1 PROCEEDINGS.

EXHIBIT P6: THE TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER THE REVENUE RECOVERY ACT AGAINST THE PETITIONER TOWARDS REALIZATION OF PENALTY IMPOSED UNDER EXT.P2 PROCEEDINGS.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 35107 of 2014

Dated this the 11th day of August, 2015

JUDGMENT

The petitioner has approached this Court challenging penalty orders for the years 2009-10 and 2010-11 under Section 67(1) of the KVAT Act, 2003. The petitioner also moved application for stay.

2. The learned Government Pleader submits that the 5th respondent is not a competent authority to consider the appeal.

3. The 5th respondent shall verify whether he is competent to hear appeals. If not, he shall transfer the file to the competent officer.

4. It is to be noted that this writ petition was filed on 20.12.2014. The petitioner is now threatened with the revenue recovery proceedings.

5. Taking note of the facts and circumstances, this Court is of the view that the appeal shall be disposed by the competent authority within outer time limit of four months after notice to the petitioner. Till the disposal of appeal, recovery proceedings shall be deferred on condition that the

petitioner remits Rs. 5,00,000/- in two instalments. The first of the instalments shall be paid on or before 05.09.2015 and the second instalment shall be paid on or before 05.10.2015.

6. If the petitioner fails to remit any one of the instalments, the respondents are free to proceed against the petitioner.

The writ petition is disposed of as above. No costs.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

bpr