

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 38517 of 2015 (L)

PETITIONER :

**SMT. SHABEENA BENNY,
M/S. CHIRIYANKANDATH AGENCIES,
ELUTHURUTHU, THRISSUR DISTRICT-680 611.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SRI.P.UNNIKRISHNAN (THRISSUR)**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
2ND CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR-680 001**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR-680 001**
- 3. THE DEPUTY TAHSILDAR (RR),
O/O. THE TAHSILDAR (RR), THRISSUR-680 001.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER NO.32080679122/JAN 2013 DATED 01/04/2014 PASSED BY THE 1ST RESPONDENT.**
- P1(A) COPY OF THE ASSESSMENT ORDER NO.32080679122/FEB 2013 DATED 01/04/2014 PASSED BY THE 1ST RESPONDENT.**
- P1(B) COPY OF THE ASSESSMENT ORDER NO.32080679122/MAR 2013 DATED 01/04/2014 PASSED BY THE 1ST RESPONDENT**
- P2 COPY OF THE FIRST APPEAL FOR THE ASSESSMENT YEAR 2013-14 (JAN) DATED 26/09/2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**
- P2(A) COPY OF THE FIRST APPEAL FOR THE ASSESSMENT YEAR 2013-14 (FEB) DATED 26/09/2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**
- P2(B) COPY OF THE FIRST APPEAL FOR THE ASSESSMENT YEAR 2013-14 (MAR) DATED 26/09/2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**
- P3 COPY OF THE REVENUE NOTICE NO.2014/1902/8/600 DATED 18/06/2014 ISSUED BY THE 3RD RESPONDENT**
- P4 COPY OF THE CASH RECEIPT NO.AR 675401 DATED 22/12/2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
- P5 COPY OF THE STAY ORDER NO.KVATA 484, 485, 486/2014 DATED 31/07/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.38517 of 2015
.....
Dated this the 18th day of December, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P5 conditional order of stay passed in a stay application filed by the petitioner along with appeals against the orders of assessment for the months of January, February and March 2013. The grievance of the petitioner while passing Ext.P5 order, the 2nd respondent did not exercise his discretion validly.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in Ext.P5 order, the contentions raised by the petitioner have been dealt with by the 2nd respondent, and he has also furnished reasons for his decision regarding payment of 30% of amounts confirmed against the petitioner as a condition for the grant of stay of

recovery of the balance amounts confirmed in the assessment orders. Inasmuch as Ext.P5 order does not suffer from any jurisdictional error, I am of the view that, there is no scope for interference with the said order in these proceedings under Article 226 of the Constitution of India. The writ petition in its challenge against Ext.P5 order therefore fails and is dismissed.

Counsel for the petitioner submits that he would require some time to comply with the directions in Ext.P5 order. Taking note of the plea of financial hardship urged on behalf of the petitioner, I direct that if the petitioner complies with the directions in Ext.P5 order on or before 15.03.2016, then that shall be treated as in compliance with Ext.P5 order and the 2nd respondent shall proceed to hear the appeals on merits.

A.K.JAYASANKARAN NAMBIAR
JUDGE

W.P.(C). No.38517 of 2015