



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 8TH DAY OF SEPTEMBER 2023 / 17TH BHADRA, 1945

OP (TAX) NO. 13 OF 2023

ORDER OF THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,

ADDL.BENCH, KOZHIKODE IN INTP. NO.50/23 & 52/23 IN

TA(VAT) 37/23 & 38/23 DATED 06.07.2023

PETITIONER/S:

PYRAMID ARCHITECTS AND ENGINEERS14/320,
MARAYAMKUNNU, KUMARANELLUR P.O., KAPPUR,
PALAKKAD. REPRESENTED BY ITS PROPRIETOR,
SHAJAHAN M. K., PIN - 679552

BY ADVS.
S.ANIL KUMAR (TRIVANDRUM)
SABU C.J
RAHUL A.
M.RAJAGOPAL

RESPONDENT/S:

- 1 STATE TAX OFFICER, WORKS CONTRACT, STATE GST DEPARTMENT, PALAKKAD., PIN - 678001
- 2 THE DEPUTY COMMISSIONER (APPEALS), SGST DEPARTMENT, PALAKKAD, PIN - 678001
- 3 THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDL. BENCH, CHEROOTTY ROAD, KOZHIKODE, PIN - 673001 REPRESENTED BY ITS ASST. SECRETARY.

SRI.P.R.SREEJITH, SC

THIS OP TAX HAVING COME UP FOR ADMISSION ON 08.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

SHOBA ANNAMMA EAPEN, J.

This Original Petition (Tax) is filed by the petitioner challenging Ext.P6 conditional order passed by the third respondent - the Kerala Value Added Tax Appellate Tribunal, Additional Bench, Kozhikode - directing the petitioner to deposit 10% of the balance tax demanded for the years, 2014-15 & 2015-16, and executing simple bond for the balance amount to the satisfaction of the assessing authority, within one month from the date of receipt of that order.

2. Aggrieved by Exts.P1 and P1(a) assessment orders for the assessment years, 2014-15 & 2015-16, passed by the first respondent, the petitioner filed appeals before the second respondent - the Deputy Commissioner (Appeals). On dismissal of the above appeals, second appeals along with petitions for condonation of delay in filing the appeals and for stay, were filed



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before the third respondent. In the petitions for stay, the third respondent passed Ext.P6 conditional order, aggrieved by which, the petitioner has come up before this Court with the original petition.

3. Heard the learned counsel for the petitioner and the learned Senior Government Pleader.

4. The learned counsel for the petitioner, Sri.S.Anilkumar, submits that Ext.P6 conditional order now passed by the third respondent is onerous and the petitioner is financially incapacitated so as to comply with the same. It is further submitted that at the time of filing first appeals, the petitioner had deposited 20% of the amount demanded and hence, the condition now imposed may be set aside.

5. *Per Contra*, Sri.V.K.Shamsudheen, the learned Senior Government Pleader, submits that having lost the case in the first appeal, the



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Appellate Tribunal directed the petitioner to pay only 10% of the balance tax demanded, which is reasonable.

6. Having considered the rival contentions raised on both sides and on going through Ext.P6 order, we do not find any reason to interfere with Ext.P6 order. Sufficient reasons have been stated by the Appellate Tribunal while passing Ext.P6 order. However, we feel that the petitioner can be given instalment facility to pay off the amount now demanded as per Ext.P6.

Accordingly, the original petition is disposed of, as follows;

- a) The petitioner is permitted to remit the amount demanded as per Ext.P6 in three equated monthly instalments.
- b) The first of such instalment shall be paid on or before 30.09.2023 and the remaining instalments on or before the corresponding date of succeeding months.



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c) In order to enable the petitioner to repay the amount as directed in Ext.P6, all coercive proceedings shall be kept in abeyance.

d) In the event of default of any one instalment, the first respondent shall be at liberty to proceed against the petitioner for recovery of the amount in accordance with law.

The petitioner shall produce a certified copy of this judgment along with the original petition before the competent respondent for compliance.

Sd/-

A. MUHAMED MUSTAQUE

JUDGE

Sd/-

SHOBA ANNAMMA EAPEN

JUDGE

bka/-



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APPENDIX OF OP (TAX) 13/2023

PETITIONER EXHIBITS

- Exhibit P1 A COPY OF THE ASSESSMENT ORDER DATED
27-08-2019 ISSUED BY THE 1ST
RESPONDENT FOR THE YEAR 2014-2015.
- Exhibit P1(a) A COPY OF THE ASSESSMENT ORDER DATED
27-08-2019 ISSUED BY THE 1ST
RESPONDENT FOR THE YEAR 2015-2016.
- Exhibit P2 A COPY OF THE ORDER DATED 30-12-2019
ISSUED BY THE 2ND RESPONDENT IN
RESPECT OF EXT.P1 ASSESSMENT ORDER
- Exhibit P2(a) A COPY OF THE ORDER DATED 30-12-2019
ISSUED BY THE 2ND RESPONDENT IN
RESPECT OF EXT.P1 (A) ASSESSMENT ORDER
- Exhibit P3 A COPY OF THE APPEAL MEMORANDUM DATED
12-04-2023 FILED AGAINST EXT.P2 ORDER
- Exhibit P3(a) A COPY OF THE APPEAL MEMORANDUM DATED
12-04-2023 FILED AGAINST EXT.P2 (A)
ORDER
- Exhibit P4 A COPY OF THE PETITION DATED 12-04-
2023 FOR CONDONING DELAY IN FILING
EXT.P3 APPEAL
- Exhibit P4(a) A COPY OF THE PETITION DATED 12-04-
2023 FOR CONDONING DELAY IN FILING
EXT.P3(A) APPEAL
- Exhibit P5 A COPY OF THE STAY PETITION DATED 12-
04-2023 FILED ALONG WITH EXT.P3 APPEAL
- Exhibit P5(a) A COPY OF THE STAY PETITION DATED 12-
04-2023 FILED ALONG WITH EXT.P3(A)
APPEAL



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Exhibit P6 A COPY OF THE COMMON STAY ORDER DATED
06-07-2023 ISSUED BY THE 3RD
RESPONDENT FOR THE YEARS 2014-15 AND
2015-2016

Exhibit P7 A COPY OF THE JUDGMENT DATED 16-07-
2019 OF THIS HON'BLE COURT IN OP(TAX)
NO: 5/2019