

M.Narayanan Vs. Intelligence Officer(ib)

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SooperKanoon Citation : sooperkanoon.com/1089504

Court : Kerala

Decided On : Sep-27-2013

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : M.Narayanan

Respondent : intelligence Officer(ib)

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH FRIDAY, THE 27TH DAY OF SEPTEMBER 2013 5TH ASWINA, 1935 WP(C).No. 22628 of 2013 (C) ----- PETITIONER(S): ----- M.NARAYANAN, PROPRIETOR OF RED ARROW, SREENIKETH, ELAMANA ROAD TRIPPUNITHURA. BY ADVS.SRI.VIJAYAN. K.U. SRI.K.N.SREEKUMARAN RESPONDENT(S): ----- 1. INTELLIGENCE OFFICER(IB), (ERNAKULAM), DEPARTMENT OF COMMERCIAL TAXES, EDAPPALLY, KOCHI-682024.

2. DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAX OFFICER, ERNAKULAM-682015.

3. ASSISTANT COMMISSIONER (WORKS CONTRACT), OLD RLY STATION ROAD, ERNAKULAM-682018.

4. KVATTRIBUNAL, COMMERCIAL TAXES, THEVARA, ERNAKULAM-682015 REPRESENTED BY ITS SECRETARY.

5. INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM AT KAKKANAD-682030.

6. STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT TAXES DEPARTMENT, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM-695001. BY GOVERNMENT PLEADER SMT.SOBHAANNA M EAPEN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-09-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 22628 of 2013 (C) APPENDIX PETITIONER(S)' EXHIBITS EXHIBIT P1 : TRUE COPY OF THE PENALTY

ORDER

DATED 14.9.2010 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P2 : TRUE COPY OF THE RR NOTICE DATED 20/2/2012 ISSUED BY THE 5TH RESPONDENT EXHIBIT P3 : TRUE COPY OF THE

JUDGMENT

IN WPC NO.31245/2010 DATED 11/11/2010 OF THIS HONOURABLE COURT. EXHIBIT P4 : TRUE COPY OF THE DEMAND DRAFT FOR RS.5. LAKHS PAID ON 19/3/2011. EXHIBIT P5 : TRUE COPY OF THE ASSESSMENT ORDER DATED 12/4/2012 FOR THE YEAR 2008-2009 ISSUED BY THE 3RD RESPONDENT EXHIBIT P6 : TRUE COPY OF THE APPELLATE

ORDER

NO.KVAT3361/2010 DATED 18/6/2012 ISSUED BY THE 2ND RESPONDENT EXHIBIT P7 : TRUE COPY OF THE

JUDGMENT

DATED 19/7/2012 IN WPC NO.14808/2012 OF THIS HONOURABLE COURT. EXHIBIT P8 : TRUE COPY OF THE 2ND APPEAL FILED AGAINST EXT.P6 BEFORE THE 4TH RESPONDENT BY THE PETITIONER EXHIBIT P8(A) : TRUE COPY OF THE STAY APPLICATION IN EXT.P8 APPEAL. EXHIBIT P8(B) : TRUE

COPY OF THE PETITION FOR URGENT HEARING IN EXT.P8 APPEAL.
EXHIBIT P9 : TRUE COPY OF THE APPEAL FILED BEFORE THE 2D
RESPONDENT BY THE PETITIONER AGAINST EXT.P5 ASSESSMENT

ORDER

. EXHIBIT P9(A) : TRUE COPY OF THE STAY APPLICATION IN EXT.P9
APPEAL. EXHIBIT P9(B) : TRUE COPY OF THE APPLICATION FOR URGENT
HEARING IN EXT.P9 APPEAL. RESPONDENT(S)' EXHIBITS : NIL /TRUE
COPY/ P.A. TO JUDGE. V. CHITAMBARESH, J ----- WP(C)
NO. 22628 OF2013----- Dated this the 27th day of
September, 2013

JUDGMENT

The petitioner challenges Ext.P13 conditional order passed in Ext.P9 appeal filed against Ext.P5 order of assessment. The petitioner contends that Ext.P5 order is based on Ext.P1 order imposing penalty which itself is under challenge in appeal before the tribunal. A detailed consideration of the merits of this case at this juncture would prejudice the contentions of either parties in the statutory appeals pending.

2. The petitioner has already remitted a sum of `3,00,000/- (Rupees Three lakhs only) in compliance with Ext.P13 order as evidenced by Ext.P14 Demand Draft. Interest of justice would be met by directing the petitioner to deposit a further sum of `5,00,000/- (Rupees Five lakhs only) within a period of one month in order to avail the benefit of stay.

3. Ext.P13 order is modified accordingly and the stay sought in Ext.P9(a) petition would be operative if a further sum of `5,00,000/- (Rupees Five lakhs only) is deposited within the 2 WP(C) No. 22628/2013 time stipulated. The petitioner shall however furnish adequate security for the balance amount. The Writ Petition is disposed of. V. CHITAMBARESH JUDGE ncd