(2010) 06 KL CK 0076

In the High Court Of Kerala

Case No : Writ Petition (C) No. 16948 of 2010 (P)

D. Rajasankaran APPELLANT

Vs

The Commercial Tax Officer RESPONDENT

Date of Decision : 02-06-2010

Acts Referred:

Citation : (2010) 06 KL CK 0076

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : R. Ramadas, for the Appellant; No Appearance, for the Respondent

Judgement

P.R. Ramachandra Menon, J.—The petitioner is aggrieved of the demand made by the respondent, particularly as per Ext.P10, directing the petitioner to satisfy a total liability of Rs. 7,43,237/- towards the balance amount of tax as well as interest, which according to the petitioner is not correct or sustainable.

2. The case of the petitioner is that, huge amounts are liable to be repaid by the respondent by way of refund, on finalization of the assessment proceedings, particularly as revealed from Ext.P4, wherein an excess tax of Rs. 1,24,226/- was paid by the petitioner, which has been ordered to be given credit to, in respect of the assessment year 2001-''02. Ext. P5 reveals that, the liability of the petitioner in respect of the assessment year 2001-''02 is ''Nil''. In Ext. P7, it is stated that there is an excess payment of Rs. 1,10,246/-. Over and above these, reference is also made by the learned Counsel for the petitioner to Ext.P10 itself, whereby the amount due in respect of year 2005-''06 has been shown as Rs. 2,28,978/-, whereas the amount paid by the petitioner is given as Rs. 5,05,405/-, thus showing substantial excess payment. It is without any regard to the said amounts to be refunded to the petitioner that the respondent has chosen to realize the interest from the petitioner. The learned Counsel for the petitioner submits that, there is no amount liable to be paid by the petitioner under any circumstances and the petitioner has preferred Exts. P12 to P14 petitions for rectification, which are stated as pending before the respondent.

The grievance of the petitioner is that, without finalizing the said proceedings, the respondent is proceeding against the petitioner.

3. Heard the learned Government Pleader as well.

4. Considering the facts and circumstances, the respondent is directed to consider Exts. P12 to P14 petitions for rectification and pass orders in accordance with law, after hearing the petitioner, as expeditiously as possible, at any rate, within two weeks from the date of receipt of a copy of this judgment. It is made clear, till such final orders are passed on Exts.P12 to P14, all further proceedings, pursuant to Ext.P10, shall be kept in abeyance.

The Writ Petition is disposed of.