(2012) 11 KL CK 0196

In the High Court Of Kerala

Case No : Writ Petition (C) .No. 25597 of 2012 (Y)

Deepu S., Proprietor, Deepu Blue Metals, Malayam, Malayinkizh, Thiruvananthapuram District — APPELLANT

Vs

Intelligence Officer, Squad No. VII, Commercial Taxes, Neyyattinkara, Thiruvananthapuram District-695121, Commercial Tax Officer, Neyyattinkara, Thiruvananthapuram-695121 and The Deputy Commissioner (Appeals), Commercial Taxes, Thiruvananthapuram-695033 — RESPONDENT

Date of Decision : 01-11-2012

Acts Referred:
Kerala Value Added Tax Act, 2003 — Section 67

Citation : (2012) 11 KL CK 0196

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : Anil Kumar Trivandrum, Sri. K.S. Hariharan Nair and Sri. K. Umamaheswar, for the Appellant; Shoba Annamma Eapen Sr Government Pleader R1 to R3, for the Respondent

Judgement

Justice Antony Dominic

1. Ext. P1 is an order of penalty passed against he petitioner u/s 67 of the KVAT Act. Aggrieved by this order petitioner filed Ext. P2 appeal. In

the stay petition filed along with the appeal, the appellate authority has passed Ext. P4 order granting stay on condition of the petitioner remitting

50% of the amount due and furnishing security for the balance. It is challenging Ext. P4 the writ petition has been filed. The main contention raised

by the counsel for the petitioner is that the order was passed without issuing copies of the document relied on or allowing an opportunity to file

reply after perusal there of. However, referring to Ext. P1 order of penalty, learned Government Pleader informs that there is nothing in the order to indicate that any such request was made by the petitioner. Having gone through Ext. P1 order, I am inclined to agree with the learned

Government Pleader and therefore prima facie I do not find any merit in the contentions raised by the counsel for the petitioner. It was then

contended that the penalty levied is illegal. In my view that is a matter which the appellate authority will have to consider when the appeal is dealt

with on merits.

2. However, having regard to the fact that it is only a penalty I direct that Ext. P4 order will stand modified by directing that if the petitioner remits

25% of the amount due within two weeks from today and furnish security for the balance amount, recovery pursuant to Ext. P1 order will stand

stayed until the disposal of the appeal.

Writ Petition is disposed of as above.