(2022) 07 KL CK 0217

In the High Court Of Kerala

Case No : Writ Petition (C) No. 22641 Of 2022

R.Anilkumar APPELLANT

Vs

State Tax Officer (Formerly Commercial Tax Officer) RESPONDENT

Date of Decision : 22-07-2022

Acts Referred:

Citation : (2022) 07 KL CK 0217

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : N.Muraleedharan Nair, Antony Jones, Dr. Thushara James

Final Decision : Disposed Of

Judgement

Gopinath P., J

1. The petitioner has approached this Court challenging Ext.P2 order of assessment under the CST Act and Rules for 2007-2008. It is the case of the petitioner that originally the assessment with respect to the petitioner was completed on 31.08.2009, against which the petitioner filed an appeal before the Deputy Commissioner (Appeals), Thiruvananthapuram who, by Ext. P1 order dated 05.10.2020, remanded the matter for consideration of the Assessing Officer. It is submitted that thereafter, though the petitioner filed an objection to the pre-assessment notice (on remand), the petitioner was not served with a copy of any final order by the Assessing Officer. It is submitted that when revenue recovery proceedings were initiated against the petitioner, the petitioner made enquiries and thereafter, by Ext. P4 dated 20.04.2022 he was informed that the assessment had been completed on 31.03.2015 through Ext. P2 order. It is submitted that the petitioner thereafter obtained a copy of Ext.P2 on an application and the same was received on 24.05.2022.

2. The learned Senior Government Pleader has produced the files for perusal of this court. The files indicate that following the remand, the petitioner was duly served with a notice of hearing by registered post with acknowledgement due.

The petitioner also submitted a reply to the notice issued by the Assessing Officer, following the remand. The files also indicate that there is an endorsement on the file which indicates that the original of Ext. P2 was despatched to the petitioner. However, at this point of time, it is not clear as to whether the order was actually served on the petitioner.

Taking note of the above, this writ petition stands disposed of permitting the petitioner to file an appeal against Ext. P2 order before the duly constituted authority taking the date of Ext.P2 to be 24.05.2022. If the petitioner files such an appeal along with a stay petition within a period of one week from today, further recovery proceedings against the petitioner shall be kept in abeyance till a decision is taken on the stay petition, by the appellate authority. I make it clear that the petitioner will not be allowed to take any contention regarding limitation on the ground that the date of Ext. P2 order is to be treated as the date on which the petitioner was served with its copy (24.05.2022) and not 31.03.2015 as I am convinced on a perusal of the files that the order was issued on 31.03.2015 itself.