(2011) 09 KL CK 0033

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24822 of 2011 (C)

T.G. Suresh — APPELLANT

Vs

Commercial Tax Officer (Deputation), Inspecting Assistant Commissioner and Deputy Commissioner (Appeals) — RESPONDENT

Date of Decision : 16-09-2011

Acts Referred:

Kerala Revenue Recovery Act, 1968 — Section 7

Citation : (2011) 09 KL CK 0033

Hon'ble Judges : K. Surendra Mohan, J

Bench : Single Bench

Advocate : M.K. Subhakaran, for the Appellant;

Judgement

K. Surendra Mohan, J.—The Petitioner has filed this writ petition challenging Ext.P3 demand notice issued u/s 7 of the Kerala Revenue Recovery Act, 1968 seeking to recover arrears of tax due under the Central Sales Tax Act, 1956. According to the Petitioner, the assessment for the year 2005-2006 under the CST Act was completed by the first Respondent without taking into account the C forms submitted by him. Therefore, he has challenged the assessment order Ext.P1 by filing an appeal against the same before the third Respondent. He has already filed Ext.P2 application for stay, along with his appeal. Though no orders have been passed either on his appeal or the stay petition, the Petitioner complains that Ext.P3 proceedings have been initiated for recovery of the disputed tax taking resort to the provisions of the Revenue Recovery Act. Therefore, he prays for issue of an order of stay of further coercive action.

2. The learned Govt. Pleader points out that a copy of the appeal has not been produced by the Petitioner and therefore, it is not clear whether a proper appeal has been filed and is pending consideration before the third Respondent. He has no objection to the stay petition being directed to be disposed of, if a proper appeal is pending.

3. This writ petition is accordingly disposed of directing the third Respondent to

consider the application for stay submitted by the Petitioner evidenced herein by Ext.P3, if a proper appeal filed by him is pending, and to pass final orders thereon, expeditiously. Until final disposal of Ext.P3 all further action based on or pursuant to Ext.P3 shall remain stayed.