

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 20TH DAY OF JULY 2018 / 29TH ASHADHA, 1940

WP(C) .No. 23246 of 2018(E)

PETITIONER:

ANNACHAMPALLY HAMZA
AGED 58, S/O MOHAMMED HAJI, ANNACHAMPALLY VEEDU,
THARAYIL, THALAKKADATHOOR, TIRUR,
MALAPPURAM-676 101.

BY ADVS.SRI.R.T.PRADEEP
SMT.M.BINDUDAS

RESPONDENT(S) :

1. STATE TAX OFFICER
OFFICE OF STATE TAX OFFICER, GOODS & SERVICE
TAX DEPARTMENT, TIRUR, MALAPPURAM-676 101.
2. COMMERCIAL TAX OFFICER
OFFICE OF COMMERCIAL TAX OFFICER, TIRUR,
MALAPPURAM-676 101.

BY GOVERNMENT PLEADER DR.THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-07-2018,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 23246 of 2018 (E)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE ASSESSMENT ORDER DATED
2.5.2018.

EXHIBIT P2: TRUE COPY OF NOTICE DATED 3.5.2018 BY 2ND
RESPONDENT.

EXHIBIT P3: TRUE COPY OF NOTICE DATED 13.6.2018 ISSUED BY 1ST
RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

OKB

TRUE COPY

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J

W.P.(C) No.23246 of 2018

Dated this the 20th day of July, 2018

JUDGMENT

The petitioner imported a 'Toyota Prado' car from the Gulf in 1999. When the respondents imposed entry tax, the petitioner challenged it. The matter eventually reached the Supreme Court, where the petitioner failed. Now the Department demands the petitioner to pay the entry tax with interest. The petitioner pleads financial hardship.

2. In response to the submissions made by the petitioner's counsel, the Government Pleader has submitted that the petitioner has to pay the entire amount.

3. But, in view of the persistent plea that the petitioner is only a driver, the Government may let him pay the amount in a few instalments.

4. Though the petitioner pleads that he needs at least 15 instalments, this Court cannot use the discretion under Article 226 of the Constitution of India to interfere with the taxing power of the State or its recovery mechanism, unless the Government's action violates any of the established legal

W.P(C).23246/18

:2:

principles of judicial review. So the petitioner must pay the entry tax along with interest in 10 equal monthly instalments, commencing from 05.9.2018. If the petitioner defaults for any two consecutive months, the respondents can proceed further without reference to this judgment.

This writ petition stands disposed of.

Sd/-
DAMA SESHADRI NAIDU
Judge

okb.

//True copy// P.A. to Judge