

Kerala High Court

K.N.Preman vs Commercial Tax Officer on 5 October, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 2967 of 2007(C)

1. K.N.PREMAN

... Petitioner

Vs

1. COMMERCIAL TAX OFFICER,

... Respondent

2. TAHSILDAR (RR),

For Petitioner :SRI.ARIKKAT VIJAYAN MENON

For Respondent : No Appearance

The Hon'ble MR. Justice ANTONY DOMINIC

Dated :05/10/2009

O R D E R

ANTONY DOMINIC, J.

W.P.(C).No.2967 OF 2007

Dated this the 5th day of October, 2009.

JUDGMENT

Petitioner is an assessee under the KGST Act. Assessment for the years 1991-92,1992-93 and 1993-94 were completed on an ex-parte basis. First appeal was rejected and by Ext.P3 order, the 2nd appellate authority, set aside the ex-parte assessment orders and directed fresh assessment with notice and opportunity to the petitioner. However, ignoring Ext.P3 his property was attached as per Ext.P4 recovery proceedings. It was thereupon that this writ petition was filed.

2. A reading of Ext.P4 revenue recovery notice show that the same was issued for dues to the Electricity Board as well Taking into account the facts as above, at the stage of admission this court

passed an order dated 25.1.2007 directing that if the petitioner remits the dues to the Electricity Board, further proceedings for realizing the sale tax arrears for the aforesaid assessment years will stand stayed.

3. Learned Government Pleader also does not dispute the correctness of the factual statements made by the petitioner. Having regard to the fact that assessment orders have been set aside by Ext.P3, P4 revenue recovery proceedings to the extent it is initiated for recovering the sale tax dues for the aforesaid assessment years in respect of which Ext.P3 order has been issued, is clearly erroneous. Therefore Ext.P4 to the extent it includes the sales tax arrears will stand set aside. It is directed that once the assessment is completed in pursuance to Ext.P3, it will be open to the respondent to initiate fresh proceedings for realizing the dues.

Writ Petition is disposed of as above.

(ANTONY DOMINIC) JUDGE vi/