

M/s Kalyan Tourist Home Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Feb. 4, 2025

Acts Referred: Kerala General Sales Tax Act, 1963 â€” Section 45A

Hon'ble Judges: Bechu Kurian Thomas, J.

Bench: Single Bench

Advocate: Thomas Abraham, Merciamma Mathew, Aswin.P.John, R.Ananthapadmanaban, Paul Baby, Swathy A.P., Jasmin M.M

Final Decision: Disposed Of

Judgement

Bechu Kurian Thomas, J.

1. Petitioner is conducting a bar hotel having a valid FL-3 licence. For the assessment year 2020-2021, since the petitioner failed to comply with the

statutory obligations, a proceeding for imposition of penalty was initiated and as per Ext.P1 order dated 21.07.2022, a penalty of Rs.60,01,306/- was

imposed under Section 45A of the Kerala General Sales Tax Act, 1963. Challenging the aforesaid penalty, an appeal was filed by the petitioner, which

was dismissed by order dated 28.02.2024. A second appeal has been preferred as T.A.No.39/2024, before the Sales Tax Appellate Tribunal, which is

pending consideration. In the meantime, an interim order of stay was granted by order dated 18.11.2024, directing the petitioner to deposit 20% of the

amount demanded within 30 days from the date of the order. Since the petitioner failed to comply with the aforesaid direction, proceedings for

recovery is being apprehended and hence petitioner has approached this Court challenging the order and also seeking a breathing time to pay the

amount imposed by the Appellate Tribunal.

2. Having heard Sri.Thomas Abraham, the learned counsel for the petitioner as well as Smt.Jasmin M.M., the learned Government Pleader, I am of

the view that this writ petition can be disposed of with a direction.

3. The Tribunal had granted a stay of recovery of the penalty imposed, on condition that petitioner deposits 20% of the amount demanded within 30

days. Already more than two months have elapsed since the stay order. Though petitioner has approached this Court under Article 226 of the

Constitution of India challenging direction to deposit 20% of the amount demanded, no substantial reasons are pointed out to interfere with the said

direction. Therefore, I am not inclined to interfere with the same.

4. However, having regard to the quantum directed to be deposited, I am of the view that a breathing time can be granted.

5. Hence, the time limit specified in Ext.P3 to deposit 20% of the amount demanded shall stand extended till 28.03.2025, provided petitioner pays the

entire amount so directed in two instalments, the first of which shall fall due on 28.02.2025 and the next instalment on 28.03.2025. It is clarified that, if

the petitioner commits default in payment of any one instalment, the respondent will be at liberty to proceed with the recovery, in accordance with law.

The writ petition is disposed of.