

Demand Notice cannot be enforced during the pendency of the Stay Application

The Hon'ble Kerala High Court in the case *M/s. Mathew Scaria v. Deputy Commissioner of State Tax and Ors. [WP(C) 33099 of 2023 dated October 16, 2023]* disposed of the writ petition, thereby directing the Revenue Department to dispose Stay Application within one month and not enforce the proceeding of Demand Notice during the pendency of the Stay Application.

Facts:

The Revenue Department ("**the Respondent**") passed Assessment Order dated January 9, 2023, against M/s Mathew Scaria ("**the Petitioner**"). The Petitioner filed an Appeal along with Stay Application dated February 2, 2023 ("**Stay Application**") under the Kerala Goods and Services Tax Act, 2017 ("**the KGST Act**") for AY 2020-2021. The Respondent further issued a Demand Notice dated August 18, 2023, during the pendency of the Appeal and Stay Application, for recovery of the GST amount from the Petitioner.

Aggrieved by the conduct of the Respondent, the Petitioner filed an Appeal before the Hon'ble High Court contending that no action has been taken on the Appeal and Stay Application, while a Demand Notice has been issued against the Petitioner during the pendency of the Appeal and Stay Application.

Issue:

Whether Demand Notice can be enforced during the pendency of the Stay Application?

Held:

The Hon'ble Kerala High Court in *WP(C) No. 33099 of 2023* disposed of the writ petition and directed that, the Respondent to consider and pass an order on the Stay Application of the

Petitioner within one month. Further, refrain the Respondent from enforcing the Demand Notice within the stipulated period.

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