

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

TUESDAY, THE 30TH DAY OF DECEMBER 2014/9TH POUSHA, 1936

WP(C).No. 35439 of 2014 (D)  
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PETITIONER  
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SUNEESH KUMAR K.J., AGED 37 YEARS  
TOPSY FOODS, AMBADI BAZAR, VARAKKAD P.O  
KOTTAMALA, WEST ELERI,  
KASARAGOD DISTRICT, PIN 671 314

BY ADVS. SRI. S. ANIL KUMAR (TRIVANDRUM)  
SRI. K. S. HARIHARAN NAIR  
SRI. K. UMAMAHESWAR

RESPONDENT(S):  
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1. COMMERCIAL TAX OFFICER  
HOSDURG, KANNUR DISTRICT PIN 671 312
2. THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES,  
NIRMAL ARCADE, ERANHIPALAM, KOZHIKODE PIN 673 006
3. THE INSPECTING ASST. COMMISSIONER,  
COMMERCIAL TAXES, KASARAGOD 671 121

BY GOVERNMENT PLEADER SMT. C. K. SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
30-12-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**APPENDIX**

PETITIONER(S)' EXHIBITS

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EXHIBIT P1 COPY OF ASSESSMENT ORDER DATED 26-03-2014 ISSUED BY THE  
1ST RESPONDENT FOR THE YEAR 2013-14  
EXHIBIT P2 COPY OF APPEAL MEMORANDUM AGAINST EXT.P1  
EXHIBIT P3 COPY OF PETITION FOR CONDONING DELAY FILED IN EXT P2 APPEAL  
EXHIBIT P4 COPY OF STAY PETITION IN EXT.P2 APPEAL  
EXHIBIT P5 COPY OF RR NOTICE DATED 2-12-2014 ISSUED BY THE 3RD  
RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY

P.S.TO JUDGE

dsn

**ANIL K.NARENDRA, J**

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**W.P.(C.)No.35439 Of 2014**  
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**DATED THIS THE 30<sup>th</sup> DAY OF DECEMBER, 2014**

**JUDGMENT**

The petitioner is a dealer, registered under the Kerala Value Added Tax Act, on the rolls of the 1<sup>st</sup> respondent. Challenging Exhibit P1 order of assessment for the year 2012-13, the petitioner filed Exhibit P2 appeal before the 2<sup>nd</sup> respondent. Exhibit P2 appeal was accompanied by Exhibit P3 application for condonation of delay and Exhibit P4 petition for stay. Now the grievance of the petitioner is that during the pendency of Exhibits P2 to P4, the 3<sup>rd</sup> respondent issued Exhibit P5 demand notice, threatening coercive steps. It is in such circumstances, the petitioner has filed this Writ Petition before this Court, seeking various reliefs.

2. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

3. It is a fact that against Exhibit P1 assessment order the petitioner has filed Exhibit P2 appeal accompanied by Exhibit P3 delay condonation petition and Exhibit P4 stay petition. The said appeal along with the interlocutory applications are still

pending consideration before the 2<sup>nd</sup> respondent. It was during the pendency of the appeal and the interlocutory applications, recovery proceedings have been initiated against the petitioner, based on Exhibit P5 demand notice issued by the 3<sup>rd</sup> respondent.

In the facts and circumstances of the case, this Writ Petition is disposed of directing the 2<sup>nd</sup> respondent to consider and pass appropriate orders on Exhibit P3 delay condonation petition and Exhibit P4 stay petition, as expeditiously as possible, at any rate within a period of three weeks from the date of receipt of a certified copy of this judgment, with notice to the petitioner. It is made clear that till such time, all recovery proceedings pursuant to Exhibit P5 shall be kept in abeyance. The petitioner shall produce a certified copy of this judgment before the 2<sup>nd</sup> respondent for compliance.

Sd/-  
**ANIL K.NARENDRA,**  
**JUDGE**

dsn