

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 214 of 2015 (B)

PETITIONER(S):

**DAYI MATHEW, AGED 46 YEARS
PROPRIETOR, PRIME ENGINEERS, KURUSUMMOOD,
CHANGANACHERRY P.O., KOTTAYAM DISTRICT.**

**BY ADVS.SRI.JOMY GEORGE
SRI.SEBASTIAN THOMAS**

RESPONDENT(S):

- 1. DEPUTY COMMISSIONER APPEALS,
COMMERCIAL TAXES, PUBLIC LIBRARY BUILDING,
KOTTAYAM - 686 001.**
 - 2. COMMERCIAL TAX OFFICER (WORKS CONTRACT),
COMMERCIAL TAXES, KOTTAYAM - 686 001.**
 - 3. DEPUTY TAHSILDAR (REVENUE RECOVERY),
CHANGANACHERRY, KOTTAYAM - 686 121.**
 - 4. INTELLIGENCE OFFICER (IB),
DEPARTMENT OF COMMERCIAL TAXES, MATTANCHERRY,
ERNAKULAM - 682 013.**
 - 5. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- BY SENIOR GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1:** TRUE COPY OF THE ASSESSMENT ORDER DATED 10.12.2010 FOR THE YEAR 2007 - 2008.
- EXT.P-2:** TRUE COPY OF THE ASSESSMENT ORDER DATED 10.12.2010 FOR THE YEAR 2008 - 2009.
- EXT.P-3:** TRUE COPY OF THE ORDER DATED 22.2.2010 PASSED BY THE 4TH RESPONDENT FOR THE YEAR 2007 - 2008.
- EXT.P-4:** TRUE COPY OF THE PENALTY ORDER PASSED BY THE 4TH RESPONDENT DATED 22.2.2010 FOR THE YEAR 2008 - 2009.
- EXT.P-5:** TRUE COPY OF THE APPEAL ALONG WITH STAY PETITION FILED BY THE PETITIONER AGAINST EXHIBIT P-1 ASSESSMENT ORDER.
- EXT.P-6:** TRUE COPY APPEAL ALONG WITH STAY PETITION FILED BY THE PETITIONER AGAINST EXHIBIT P-2 ASSESSMENT ORDER.
- EXT.P-7:** TRUE COPY REVISION PETITION ALONG WITH STAY PETITION FILED BY THE PETITIONER AGAINST EXHIBIT P-3 PENALTY ORDER.
- EXT.P-8:** TRUE COPY REVISION PETITION ALONG WITH STAY PETITION FILED BY THE PETITIONER AGAINST EXHIBIT P-4 PENALTY ORDER
- EXT.P-9:** TRUE COPY OF THE APPEAL ALONG WITH STAY PETITION FILED BY THE PETITIONER AGAINST THE RECTIFICATION ORDER FOR THE YEAR 2008 - 2009.
- EXT.P-10:** TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT DATED 26.6.2012 ISSUED BY THE 3RD RESPONDENT
- EXT.P-11:** TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 34 OF THE REVENUE RECOVERY ACT DATED 26.6.2012 ISSUED BY THE 3RD RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 214 of 2015 (B)
.....

Dated this the 6th day of January, 2015

JUDGMENT

Against Exts.P1 and P2 assessment orders, and Exts.P3 and P4 penalty orders, for the assessment years 2007 - 2008 and 2008 - 2009 respectively, the petitioner had preferred Exts.P5 and P6 appeals and Exts.P7 and P8 revisions before the statutory authorities. Ext.P9 appeal has also been preferred by the petitioner against a rectification order that was passed for the assessment year 2008 - 2009. It is the submission of the petitioner that Exts.P5, P6, P7, P8 and P9 appeals/revisions, together with the stay petitions filed along with them, are pending consideration before the first respondent.

2. It is also pointed out that, while the first respondent has not passed any orders in the stay petitions, the respondents are taking steps for recovery of the amounts confirmed by Exts.P1 to P4 orders from the petitioner. It is under these circumstances, that this writ petition is filed.
3. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.
4. On a consideration of the facts and circumstances of the

case and the submissions made across the Bar, I dispose the writ petition with the following directions :

1. The first respondent shall consider and pass orders on the stay petitions filed by the petitioner, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner by the assessment orders and penalty orders referred to above, shall be kept in abeyance till orders are passed by the first respondent as directed above and communicated to the petitioner.

3. The orders to be passed by the first respondent shall be reasoned one, advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery, pending disposal of the appeals/revisions.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE