

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 403 of 2015 (A)

PETITIONER:

**M/S.VANNIAMPARAMBIL JEWELLERS,
CHERTHALA,
REP. BY MANAGING PARTNER V.J.JOSE.**

**BY ADVS.SRI.K.P.ABDUL AZEES
SMT.C.AMRITA
SMT.T.ARCHANA**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
CHERTHALA - 688 524.**
- 2. THE VALUE ADDED TAX APPELLATE TRIBUNAL,
ERNAKULAM - 682 016.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ALAPPUZHA - 688 001.**
- 4. THE COMMISSIONER, COMMERCIAL TAXES,
THIRUVANANTHAPURAM - 695 001.**

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 403 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : THE TRUE COPY OF THE ASSESSMENT ORDER BY THE COMMERCIAL TAX OFFICER, CHERTHALA.

EXHIBIT P2 : THE TRUE COPY OF THE AUDITED STATEMENT IN FORM 13 FILED BY THE PETITIONER.

EXHIBIT P3 : THE TRUE COPY OF THE AUDITED STATEMENT IN FORM 13A FILED BY THE PETITIONER.

EXHIBIT P4 : THE TRUE COPY OF APPEAL MEMORANDUM FILED BEFORE THE VALUE ADDED TAX APPELLATE TRIBUNAL, ERNAKULAM.

EXHIBIT P5 : THE TRUE COPY OF STAY APPLICATION FILED BEFORE THE VALUE ADDED TAX APPELLATE TRIBUNAL, ERNAKULAM.

EXHIBIT P6 : THE TRUE COPY OF RRC NO.12/14-15/CHERTHALA DATED 20.12.2014 ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ALAPPUZHA.

RESPONDENT'S EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 403 of 2015 (A)

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Dated this the 6th day of January, 2015

JUDGMENT

Against Exts.P1 assessment order, the petitioner preferred Exts.P4 appeal and Ext.P5 stay application before the second respondent Tribunal. It is the case of the petitioner that even before a consideration of the stay petition by the second respondent, recovery steps have been initiated against him through Exts.P6 demand notice, for recovery of the amounts confirmed in the assessment order.

2.Heard Sri.K.P.Abdul Azees, the learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3.On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the second respondent Tribunal to consider and pass orders on Ext.P5 stay application, after ascertaining as to whether the appeal preferred against Ext.P1

assessment order is maintainable before the Tribunal. This shall be done, after affording an opportunity of hearing to the petitioner, at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment. The order to be passed by the second respondent shall contain reasons for the decision arrived at by him.

Recovery steps initiated through Exts.P6 demand notice shall be kept in abeyance till such time as the second respondent passes orders, as directed, in the stay petition/appeal, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/01/