

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 1133 of 2015 (N)

PETITIONER :

**RAMESH.S.S.,
PRANATMAKA CONSTRUCTIONS,
OPP. KSRTC BUS STAND, PATHANAMTHITTA-689 645.**

BY ADV. DR.K.P.PRADEEP

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO TAXES,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001**
- 2. COMMERCIAL TAX OFFICER (WORKS CONTRACT),
DEPARTMENT OF COMMERCIAL TAXES,
O/O. THE DEPUTY COMMISSIONER, PATHANAMTHITTA.**
- 3. DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, PATHANAMTHITTA.**
- 4. COMMISSIONER OF COMMERCIAL TAX,
DEPARTMENT OF COMMERCIAL TAXES, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM.**

R1 TO R4 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PENALTY ORDER ISSUED UNDER SECTION 67(1) OF THE KVAT ACT, 2003 NO.32030782986/2011-12 DATED 13/6/2014 BY THE 2ND RESPONDENT TO THE PETITIONER.**
- P2 COPY OF THE PENALTY ORDER ISSUED UNDER SECTION 67(1) OF THE KVAT ACT, 2003 NO.32030782986/2012-13 DATED 13/6/2014 BY THE 2ND RESPONDENT TO THE PETITIONER.**
- P3 COPY OF THE COMMON ORDER IN RP 125 & 126/14 DATED 4/11/2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
- P4 COPY OF THE REVISION DATED 27/11/2014 FILED BEFORE THE 4TH RESPONDENT WITH RESPECT TO THE YEAR 2011-12**
- P4(A) COPY OF THE REVISION DATED 27/11/2014 FILED BEFORE THE 4TH RESPONDENT WITH RESPECT TO THE YEAR 2012-13.**
- P5 COPY OF THE STAY APPLICATION DATED 28/11/2014 FILED BEFORE THE 4TH RESPONDENT IN EXT.P4 REVISION.**
- P5(A) COPY OF THE STAY APPLICATION DATED 28/11/2014 FILED BEFORE THE 4TH RESPONDENT IN EXT.P4 (A) REVISION.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.1133 of 2015 (N)
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Dated this the 13th day of January, 2015

JUDGMENT

Against Exts. P1 and P2 penalty orders under the Kerala Value Added Tax Act, 2003 for the assessment years 2011 – 2012 and 2012 – 2013, petitioner preferred revision petitions before the 3rd respondent. The said revision petitions were dismissed by Ext.P3 order. Aggrieved by the same, the petitioner has preferred further revisions, as Exts.P4 and P4(a), and Exts.P5 and P5(a) stay applications, before the 4th respondent. It is the case of the petitioner that, even prior to considering the stay applications, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P3 order from the petitioner.

2. I have heard Sri.K.P.Pradeep, learned counsel appearing for the petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I dispose the writ petition with the following directions :

- (i). The 4th respondent shall consider and pass orders on Exts.P5 and P5(a) stay applications within two months from the date of receipt of a copy of this

judgment, after hearing the petitioner.

(ii). Coercive steps pursuant to Ext.P3 order shall be kept in abeyance till orders are passed by the 4th respondent as directed above and communicated to the petitioner.

iii). The order to be passed by the 4th respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the revision.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/15/01/