

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 1438 of 2015 (D)

PETITIONER(S):

**MCNROE CONSUMER PRODUCTS PVT. LTD.,
27/2144, ANANTHURUTHICHIRA ROAD, KOCHUKADAVANTHRA
KOCHI - 682 020.**

**BY ADVS.SRI.K.M.CHERIAN
SRI.P.M.GIRIJAVALLABHAN
SRI.V.P.SABU
SRI.R.RAMAKRISHNAN POTTY**

RESPONDENTS:-:

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX DEPARTMENT, IVTH CIRCLE
ERNAKULAM - 682 018.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPT. OF COMMERCIAL TAX, ERNAKULAM, PIN - 682 015.**
- 3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY
DEPARTMENT OF COMMERCIAL TAXES, SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695 001.**

BY GOVERNMENT PLEADER SMT.SHOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE ORDER NO.32071847078 DATED 03.12.2014 FOR THE RETURN PERIOD OF APRIL 14 FOR THE YEAR 2014-15 ISSUED BY THE FIRST RESPONDENT.**
- EXHIBIT P2. TRUE COPY OF THE APPEAL FILED FOR THE RETURN PERIOD OF APRIL 2014 FOR THE YEAR 2014-15 DATED 18.12.14.**
- EXHIBIT P3. TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR URGENT HEARING FILED FOR THE RETURN PERIOD OF APRIL 2014 FOR THE YEAR 2014-15 DATED 18.12.14.**
- EXHIBIT P4. TRUE COPY OF THE INTERLOCUTORY APPLICATION PRAYING FOR THE STAY OF COLLECTION OF TAX FILED FOR THE RETURN PERIOD OF APRIL 2014 FOR THE YEAR 2014-15 DATED 18.12.2014.**
- EXHIBIT P5. TRUE COPY OF THE E-MAIL REQUEST SENT TO THE 1ST RESPONDENT TO REVISE THE RETURN.**
- EXHIBIT P6. TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT.**
- EXHIBIT P7. TRUE COPY OF THE POSTAL COVER.**
- EXHIBIT P8. TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT'S OFFICE.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1438 OF 2015

Dated this the 15th day of January, 2015

J U D G M E N T

Against Ext.P1 assessment order for the month of April 2014, the petitioner has preferred Ext.P2 appeal and Ext.P4 stay petition before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P1 assessment order.

2. Heard Sri.K.M.Churian, the learned counsel for the 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 as also the submissions made across the Bar, I dispose the writ petition with the following directions:

- i. The 2nd respondent shall consider and pass orders on the stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

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

iii. The order to be passed by the 2nd 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 appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

