

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1475 of 2015 (H)

PETITIONER(S):

**M/S. EMERALD TRADING COMPANY,
CHEMMANNOOR ROAD, 13/62, D2,
KUNNAMKULAM P.O, THRISSUR - 680 503.**

**BY ADVS.SRI.ANIL D. NAIR,
SRI.R.SREEJITH,
SMT.C.S.SULEKHA BEEVI,
SMT.ROSIE ATHULYA JOSEPH,
KUM.SOUMYA PRAKASH.**

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER
COMMERCIAL TAXES, SQUAD NO.IV,
MATTANCHERRY- 682 001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
ERNAKULAM- 682 030.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, PANKAJ BUILDING,
WEST FORT, THRISSUR -680 001.**
- 4. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY (TAXES),
THIRUVANANTHAPURAM- 695 001.**

BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT. P1- TRUE COPY OF THE PENALTY ORDER FOR TH YEAR 2010-2011
ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.
- EXT. P2- TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT.
- EXT. P3- TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT.
- EXT. P4- TRUE COPY OF THE HIGH COURT ORDER DATED 13.09.2010 IN
WP(C) NO.27415/2010.
- EXT. P5- TRUE COPY OF THE RECEIPT EVIDENCING 50% OF THE TAX PAID.
- EXT. P6- TRUE COPY OF THE NOTICE DATED 01.01.2015 ISSUED BY THE
3RD RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 1475 of 2015 (H)

.....
Dated this the 16th day of January, 2015

JUDGMENT

Against Ext.P1 order imposing penalty under the Kerala Value Added Tax Act, 2003, the petitioner preferred Ext.P2 appeal and Ext.P3 stay petition before the second respondent. It is the case of the petitioner that even before the consideration of the stay petition by the second respondent, recovery steps have been initiated against him through Ext.P6 demand notice, for recovery of the amounts confirmed in the assessment order.

2.I have heard Sri.Anil D.Nair, learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader for the respondents.

2. 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:

1. The second respondent shall consider and pass orders on Ext.P3 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps, initiated against the petitioner, pursuant to Ext.P6 demand notice, shall be kept in abeyance till orders are passed by the second respondent as directed above and communicated to the petitioner.

3. The order to be passed by the second 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/16/01/