

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. 1723 of 2015 (M)

PETITIONER:

**ESSJAY ELECTROLINKS (P) LTD.,
KALINGAPARAMBIL, NAD POST, NOCHIMA,
PIN-683563, KALAMASSERRY, ERNAKULAM DISTRICT,
REPRESENTED BY ITS DIRECTOR, JAYAN K.S.**

BY ADV. SRI.R.MURALIDHARAN (ARoor)

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER-IV,
DEPARTMENT OF COMMERCIAL TAXES,
ALUVA, PIN-683 101.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, PIN-682 015.**
- 3. THE INSPECTING ASSISTANT COMMSSIONER,
COMMERCIAL TAXES, MATTANCHERRY,
COCHIN, PIN-682002.**

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

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

mbr/

WP(C).No. 1723 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1- TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE
1ST RESPONDENT FOR THE YEAR 2012-13, DATED 04-09-2014.**
- EXHIBIT P2- TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT AGAINST EXT. P1 ORDER, DT. 09-01-2015.**
- EXHIBIT P3- TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED
BEFORE THE 2ND RESPONDENT DATED 09-01-2015 WITH EXT P2.**
- EXHIBIT P4- TRUE COPY OF THE DEMAND NOTICE UNDER R.R.ACT, SERVED ON
THE PETITIONER, DATED 22-12-2014.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 1723 of 2015 (M)

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

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003 and Central Sales Tax Act, 1956. Against Ext.P1 assessment order for the year 2012 – 2013, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent Deputy Commissioner (Appeals). It is the case of the petitioner that even prior to considering the stay petition, Ext.P4 demand notice is issued under Section 7 of the Kerala Revenue Recovery Act to the petitioner, threatening recovery action.

2. Heard Sri.R.Muraleedharan, 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 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 Ext.P2 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

(ii) Recovery steps initiated against the petitioner pursuant to Ext.P4 demand notice 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 advertng 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/17/01/