

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. 1727 of 2015 (M)

PETITIONER :

**M/S.ROLLMEN ENGINEERING WORKS PRIVATE LIMITED,
VIII/802C, NEW INDUSTRIAL DEVELOPMENT AREA, KANJIKODE,
PALAKKAD, REPRESENTED BY ITS MANAGING DIRECTOR,
SRI. NIXON JOSEPH.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
IIIRD CIRCLE, PALAKKAD- 678 001**
- 2. THE ASSISTANT COMMISSIONER(APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM- 682 015**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD -678 001**

R1 TO R3 BY SR GOVERNMENT 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:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST
RESPONDENT FOR THE YEAR 2009-10(KVAT ACT) DATED 11-11-2014
- EXHIBIT P2 TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST
RESPONDENT FOR THE YEAR 2013-14 CST ACT) DATED 13-11-2014
- EXHIBIT P3 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT FOR THE YEAR(KVAT) 2009-10 DATED 14-01-2015
- EXHIBIT P4 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT FOR THE YEAR (CST ACT) 2013-14
DATED 14-01-2015
- EXHIBIT P5 TRUE COPY OF THE DELAY CONDONATION PETITION FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2009-10
(KVT ACT) DATED 14-01-2015
- EXHIBIT P6 TRUE COPY OF THE DELAY CONDONATION PETITION FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2013-14
(CST ACT) DATED 14-01-2015
- EXHIBIT P7 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT FOR THE YEAR 2009-10(KVAT ACT)
DATED 14-01-2015
- EXHIBIT P8 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT FOR THE YEAR 2013-14 (CST ACT)
DATED 14/01/2015.
- EXHIBIT P9 TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE
REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE
YEAR 2009-10 (KVAT ACT) DATED 29/12/2014
- EXHIBIT P10 TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE
REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE
YEAR 2013-14 (CST ACT) DATED 29/12/2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 1727 of 2015 (M)
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Dated this the 16th day of January, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003 on the rolls of the first respondent. Against Exts.P1 and P2 assessment orders issued under the KVAT Act and CST Act for the assessment years 2009 – 2010 and 2013 – 2014 respectively, the petitioner has preferred Exts.P3 and P4 appeals along with Exts.P5 and P6 delay condonation petitions and Exts.P7 and P8 stay petitions before the 2nd respondent Assistant Commissioner (Appeals). It is the case of the petitioner that even prior to considering the stay petitions, Exts.P9 and P10 demand notices have been issued under Section 7 of the Kerala Revenue Recovery Act to the petitioner, threatening recovery action.

2. Heard Sri.N.Muraleedharan Nair, 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 Exts. P5 and P6 delay condonation

petitions and Exts.P7 and P8 stay petitions 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 Exts.P9 and P10 demand notices shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/17/01/