

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. 1733 of 2015 (N)

PETITIONER :

**SUDHEESH N.C., AGED 30,
DREAMS HOME APPLIANCES
THURAVOOR – 688 532
CHERTHALA, ALAPPUZHA DIST.**

BY ADV. SRI.V.DEVANANDA NARASIMHAM

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER,
AIT & COMMERCIAL TAXES,
KUTHIYATHODE – 688 533.**
- 2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, BAPPUJI NAGAR
ASRAMAM, KOLLAM – 691 002.**
- 3. THE DEPUTY TAHSILDAR (RR)
TALUK OFFICE, CHERTHALA – 688 524.**

R1 TO R3 BY SR. 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:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF CERTIFICATE OF REGISTRATOIN AND ITS ANNEXURE
DTD. 31-8-13 ISSUED BY 1ST RESPONDENT TO PETITIONER.
- EXT.P2 COPY OF EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD
APRIL 2014 DATED 28-10-14.
- EXT.P3 COPY OF EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD
MAY 2014 DATED 28-10-14.
- EXT.P4 COPY OF EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD
JUNE 2014 DATED 28-10-14.
- EXT.P5 COPY OF EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD
JULY 2014 DATED 28-10-14.
- EXT.P6 COPY OF EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD
AUGUST 2014 DATED 28-10-14.
- EXT.P7 COPY OF THE MONTHLY RETURN FOR APRIL 2014 DATED 27-11-14.
- EXT.P8 COPY OF THE MONTHLY RETURN FOR MAY 2014 DATED 27-11-14.
- EXT.P9 COPY OF THE MONTHLY RETURN FOR JUNE 2014 DATED 27-11-14.
- EXT.P10 COPY OF THE MONTHLY RETURN FOR JULY 2014 DATED 27-11-14.
- EXT.P11 COPY OF THE MONTHLY RETURN FOR AUGUST 2014 DATED 27-11-14.
- EXT.P12 COPY OF APPEAL MEMORANDUM FOR APRIL 2014 DATED 1-12-14
FILED AGAINST EXT. P2 ASSESSMENT ORDER BEFORE 2ND
RESPONDENT.

(Contd...)

- EXT.P13 COPY OF APPEAL MEMORANDUM FOR MAY 2014 DATED 1-12-14
FILED AGAINST EXT. P3 ASSESSMENT ORDER BEFORE 2ND
RESPONDENT.
- EXT.P14 COPY OF APPEAL MEMORANDUM FOR JUNE 2014 DATED 1-12-14
FILED AGAINST EXT. P4 ASSESSMENT ORDER BEFORE 2ND
RESPONDENT.
- EXT.P15 COPY OF APPEAL MEMORANDUM FOR JULY 2014 DATED 1-12-14
FILED AGAINST EXT. P5 ASSESSMENT ORDER BEFORE 2ND
RESPONDENT.
- EXT.P16 COPY OF APPEAL MEMORANDUM FOR AUGUST 2014 DATED 1-12-14
FILED AGAINST EXT. P6 ASSESSMENT ORDER BEFORE 2ND
RESPONDENT.
- EXT.P17 COPY OF APPLICATION FOR URGENT HEARING FOR APRIL 2014
DATED 28-11-14.
- EXT.P18 COPY OF APPLICATION FOR URGENT HEARING FOR MAY 2014 DATED
28-11-14.
- EXT.P19 COPY OF APPLICATION FOR URGENT HEARING FOR JUNE 2014
DATED 28-11-14.
- EXT.P20 COPY OF APPLICATION FOR URGENT HEARING FOR JULY 2014
DATED 28-11-14.
- EXT.P21 COPY OF APPLICATION FOR URGENT HEARING FOR AUGUST 2014
DATED 28-11-14.
- EXT.P22 COPY OF NOTICE NO. KVATA (ALPY) 617/14 TO 621/14 DATED 1-1-15
ISSUED BY 2ND RESPONDENT TO PETITIONER.
- EXT.P23 COPY OF RR NOTICE DATED 12-12-14 AGAINST EXT.P2 ORDER FOR
APRIL 14 ISSUED BY 3RD RESPONDENT TO PETITIONER.
- EXT.P24 COPY OF RR NOTICE DATED 15-12-14 AGAINST EXT.P5 ORDER FOR
JULY 14 ISSUED BY 3RD RESPONDENT TO PETITIONER.

(Contd...)

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- EXT.P25 COPY OF RR NOTICE DATED 15-12-14 AGAINST EXT.P6 ORDER FOR AUGUST 14 ISSUED BY 3RD RESPONDENT TO PETITIONER.
- EXT.P26 COPY OF INVENTORY CUM MAHASSAR DTD. 6-1-15 ISSUED BY 3RD RESPONDENT TO THE PETITIONER.
- EXT.P27 COPY OF INTERLOCUTORY APPLICATION FOR STAY DATED 14-1-15 FILED AGAINST EXT. P2 EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD APRIL 2014 SUBMITTED BEFORE 2ND RESPONDENT.
- EXT.P28 COPY OF INTERLOCUTORY APPLICATION FOR STAY DATED 14-1-15 FILED AGAINST EXT. P3 EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD MAY 2014 SUBMITTED BEFORE 2ND RESPONDENT.
- EXT.P29 COPY OF INTERLOCUTORY APPLICATION FOR STAY DATED 14-1-15 FILED AGAINST EXT. P4 EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD JUNE 2014 SUBMITTED BEFORE 2ND RESPONDENT.
- EXT.P30 COPY OF INTERLOCUTORY APPLICATION FOR STAY DATED 14-1-15 FILED AGAINST EXT. P5 EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD JULY 2014 SUBMITTED BEFORE 2ND RESPONDENT.
- EXT.P31 COPY OF INTERLOCUTORY APPLICATION FOR STAY DATED 14-1-15 FILED AGAINST EXT. P6 EX-PARTY ASSESSMENT ORDER FOR THE RETURN PERIOD AUGUST 2014 SUBMITTED BEFORE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.1733 of 2015 (N)

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Dated this the 16th day of January, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003 on the rolls of 1st respondent. Against Exts.P2 to P6 monthly assessment orders for the period from April, 2014 to August, 2014; the petitioner has preferred Exts.P12 to P16 appeals and Exts.P27 to P31 stay petitions before the 2nd respondent Deputy Commissioner (Appeals). It is the case of the petitioner that, even prior to considering the appeals, the 3rd respondent issued Exts.P23 to P25 Revenue Recovery notices and Ext.P26 attachment notice, threatening recovery action.

2. Heard Sri.V.Devananda Narasimham, 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.P27 to P31 stay petitions within a period of two months 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.P26 attachment notice shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

(iii) The 3rd respondent is directed to ensure that, the attachment effected by Ext.P26, is lifted till such time as the 2nd respondent passes orders on Exts.P27 to 31 stay petitions.

(iv) 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/17/01/