

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 1934 of 2015 (N)

PETITIONER:

**M/S.SUNSHINE PIPES PRIVATE LIMITED,
CHELAKKARA, THRISSUR DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,
JESSY RAJAN.**

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

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER-I,
WADAKKANANCHERRY - 680 582.**
- 2. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
CIVIL LANE, THRISSUR - 680 004.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
PANKAJ BUILDING, WEST FORT, THRISSUR - 680 004.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 1934 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1:** TRUE COPY OF THE PENALTY ORDER PASSED BY 1ST RESPONDENT FOR THE MONTH OF JUNE 2014 DATED 28/08/2014.
- EXT.P2:** TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 19/11/2014.
- EXT.P3:** TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 19/11/2015.
- EXT.P4:** TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT DATED 02/12/2014.
- EXT.P5:** TRUE COPY OF THE PROHIBITORY ORDER ISSUED BY 3RD RESPONDENT TO THE PETITIONER'S BANK DATED 06/01/2015.
- EXT.P6:** TRUE COPY OF THE LETTER ISSUED BY 3RD RESPONDENT TO THE PETITIONER'S BANK DATED 06/01/2015.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.1934 of 2015

.....
Dated this the 20th day of January, 2015

J U D G M E N T

Against Ext.P1 penalty order, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. Exts.P5 and P6 are the prohibitory orders and garnishee proceedings issued for the purposes of recovery of the amounts due from the petitioner. 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 penalty order.

2. Heard Sri.N.Muraleedharan Nair, the learned counsel for the petitioner and Smt.Lilly.K.T., the learned counsel for 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.P3 stay petition within a period of two months from the date of receipt of a copy

of this judgment, after hearing the petitioner.

ii. Further proceedings for recovery of penalty amount, including further proceedings pursuant to Exts.P5 and P6, shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner. The respondents shall withdraw the prohibitory orders and garnishee proceedings, and permit the petitioner to operate his bank accounts, during the said period

iii. The order to be passed by the 2nd respondent shall be a reasoned one advertent 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/

