

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 2838 of 2015 (D)

PETITIONER(S):

**M/S.PERIYAR AGENCIES, AGED 62 YEARS,
32/916, ANCHUMANA, EDAPPALLY P.O.
KOCHI-24, REPRESENTED BY ITS PARTNER, C.M.MUHAMMED.**

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

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER
2ND CIRCLE, KALAMASSERY AT CIVIL STATION
KAKKANAD-682030.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM-682015.**
- 3. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
TALUK OFFICE, KUNNATHUNAD, PERUMBAVOOR-683542.**

BY GOVERNMENT PLEADER SMT.SHOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT P1:** TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 30.08.2014
- EXT P2:** TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2013-14 DATED 30.08.2014
- EXT P3:** TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13 DATED 17.01.2015
- EXT P4:** TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2013-14 DATED 17.01.2015
- EXT P5:** TRUE COPY OF THE DELAY CONDONATION PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13 DATED 17.01.2015
- EXT P6:** TRUE COPY OF THE DELAY CONDONATION PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2013-14 DATED 17.01.2015
- EXT P7:** TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13 DATED 17.01.2015
- EXT P8:** TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2013-14 DATED 17.01.2015
- EXT P9:** TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2012-13 DATED 24.11.2014
- EXT P10:** TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE YEAR 2013-14 DATED 24.11.2014

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 2838 of 2015 (D)

.....
Dated this the 29th day of January, 2015

JUDGMENT

Against Exts.P1 and P2 assessment orders issued under the Kerala Value Added Tax Act, 2003 for the assessment years 2012 – 2013 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 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 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/29/01/