

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 2942 of 2015 (P)

PETITIONER(S):

**A.S. SINI (PROP),
M/S.SREELAKSHMI SILKS & SAREES, PATTURAIKKAL
THRISSUR - 680 022.**

**BY ADVS.SRI.M.UNNIKRISHNA MENON
SRI.C.CHANDRASEKHARAN**

RESPONDENTS:-:

- 1. APPELLATE ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES,
WEST FORT, THRISSUR - 680 001.**
- 2. COMMERCIAL TAX OFFICER II,
THIRD CIRCLE, THRISSUR - 680 001.**
- 3. COLLECTOR (AUTHORISED OFFICER),
INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES
PANKAJ BUILDING, WEST FORT, THRISSUR - 680 001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE ASSESSMENT ORDER DATED 09.08.2014.**
- EXHIBIT P2. TRUE COPY OF THE PENALTY ORDER DATED 08.07.2014.**
- EXHIBIT P3. TRUE COPY OF THE APPEAL DATED 04.10.2014.**
- EXHIBIT P4. TRUE COPY OF THE DELAY CONDONATION PETITION DATED 04.10.2014.**
- EXHIBIT P5. TRUE COPY OF THE STAY PETITION DATED 04.10.2014.**
- EXHIBIT P6. TRUE COPY OF THE APPEAL DATED 11.11.2014.**
- EXHIBIT P7. TRUE COPY OF THE STAY PETITION DATED 11.11.2014.**
- EXHIBIT P8. TRUE COPY OF THE DEMAND NOTICE FOR ASST YEAR 2010.2011 DATED 20.10.2014.**
- EXHIBIT P9. TRUE COPY OF THE DEMAND NOTICE FOR ASST YEAR 2014-2015 DATED 20.10.2014.**
- EXHIBIT P10. TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT DATED 05.10.2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.2942 of 2015 (P)
.....

Dated this the 30th day of January, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003. The petitioner was served with Ext.P1 assessment order and Ext.P2 penalty order under the KVAT Act. Against Ext.P1 order, he has preferred Ext.P3 appeal along with Ext.P4 delay condonation petition and Ext.P5 stay petition before the 1st respondent. Against Ext.P2 penalty order, petitioner has preferred Ext.P6 appeal and Ext.P7 stay petition, which is stated to be now pending consideration before the 1st respondent.

2. It is the case of the petitioner that, even before considering Exts.P5 and P7 stay petitions, Exts.P8 and P9 demand notices have been issued to him seeking recovery of the amounts confirmed by Ext.P1 assessment order and Ext.P2 penalty order. It is under these circumstances, the writ petition has been filed, seeking stay of further proceedings pursuant to Exts.P8 and P9 demand notices, pending consideration of the appeal against the penalty order, and the stay petition against the assessment order.

3. I have heard Sri.M.Unnikrishna Menon, learned counsel appearing for the petitioner and Smt.Sobha Annama Eappen, learned Government Pleader appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions :

1. The 1st respondent shall consider and pass orders on Ext.P4 delay condonation petition, and Exts.P5 and P7 stay petitions, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2. Recovery steps initiated against the petitioner pursuant to Exts.P8 and P9 demand notices, shall be kept in abeyance, till such time, as orders are passed by the 1st respondent as directed above, and communicated to the petitioner.

3. While passing orders in the stay petition, the 1st respondent shall advert to the contentions raised by the petitioner and give reasons for his findings.

4. It is made clear that, the 1st respondent, before considering Ext.P7 stay petition, shall also consider whether Ext.P6 appeal preferred by the petitioner against Ext.P2 penalty order is maintainable before him or whether the petitioner would be required to file a revision before the competent authority against the said order.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/30/01/