

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C) .NO. 3166 OF 2015 (U)

PETITIONER(S) /PETITIONER:

BHIMA AND BROTHER BULLION PRIVATE LIMITED,
(EARLIER, M/S.BHIMA & BROTHERS)17/1292, BHIMA BUILDING
MULLACKAL, IRON BRIDGE.P.O
ALAPPUZHA-688011.REPRESENTED BY ITS DIRECTOR-SRI.KAILASNATH
LAKSHMIKANTHAN.

BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL

RESPONDENT(S) /RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY
COMMERCIAL TAXES DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695001.

2. THE DEPUTY COMMISSIONER(Appeals) ,
COMMERCIAL TAXES, KOLLAM-691013.

3. THE ASSISTANT COMMISSIONER(ASSESSMENT) ,
SPECIAL CIRCLE, COMMERCIAL TAXES, ALAPPUZHA-688012.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 3166 OF 2015 (U)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 COPY OF CERTIFICATE OF INCORPORATION ISSUED BY THE REGISTRAR
OF COMPANIES.

EXT.P2 COPY OF THE ORDER NO.32040223852/2007-08 DATED 17-06-2013
PASSED BY THE 3RD RESPONDENT

EXT.P3 COPY OF THE ORDER DATED 10-11-2014 PASSED BY THE 2ND
RESPONDENT

EXT.P4 COPY OF APPEAL MEMORANDUM DATED 17-1-2015 FILED BEFORE THE
TRIBUNAL

EXT.P5 COPY OF STAY PETITION DATED 17-1-2015 FILED BEFORE THE
TRIBUNAL

EXT.P6 COPY OF THE CHALAN RECEIPT ISSUED BY THE 1ST RESPONDENT

EXT.P7 COPY OF DEMAND NOTICE (ORDER)NO.32640223852/2007-08 DATED
29-12-2014 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.3166 of 2015

.....
Dated this the 2nd day of February, 2015

J U D G M E N T

Against Ext.P3 order of the First Appellate Authority, the petitioner has preferred Ext.P4 appeal and Ext.P5 stay petition before the appellate Tribunal. It is the case of the petitioner that even prior to considering the stay petition, Ext.P7 demand notice has been issued seeking recovery of the amounts confirmed by Ext.P3 order .

2. Heard Sri.S.Vinod Bhat, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned counsel 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 appellate Tribunal shall consider and pass orders on Ext.P5 stay petition within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Recovery steps pursuant to Ext.P7 shall be kept in abeyance till such time as the appellate Tribunal passes orders as directed above and communicates the same to the petitioner.

3. The order to be passed by the appellate Tribunal 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/

