

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. 3297 of 2015 (J)

PETITIONER:

**M/S. BHOOMI NATURAL PRODUCTS & EXPORTS PVT LTD, AGED 44 YEARS,
GIRINAGAR, ERNAKULAM 682011,
REPRESENTED BY ITS MANAGING DIRECTOR K.JAYACHANDRAN.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI**

RESPONDENTS:

- 1. THE COMMERCIAL TAX OFFICER,
III CIRCLE,
ERNAKULAM 682 011.**
- 2. THE ASST. COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM - 682 011.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM - 682 011**

BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPAN

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

APPENDIX

PETITIONER'S EXHIBITS

- EXT. P1 : COPY OF THE ASSESSMENT ORDER NO.32071715201/2012-13 DATED 22.11.2014 FOR THE YEAR 2012-13 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT. P2 : COPY OF THE 'C' FORM NO.0177335 DATED 08.01.2015 FOR THE YEAR 2012-13 ISSUED BY THE PURCHASER TO THE PETITIONER.
- EXT. P2 A : COPY OF THE 'C' FORM NO.0177336 DATED 08.01.2015 FOR THE YEAR 2012-13 ISSUED BY THE PURCHASER TO THE PETITIONER.
- EXT. P2 B : COPY OF THE 'C' FORM NO.0248990 DATED 05.12.2014 FOR THE YEAR 2012-13 ISSUED BY THE PURCHASER TO THE PETITIONER.
- EXT. P2 C : COPY OF THE 'C' FORM NO.MH-13/A 313296 DATED 15.02.2014 FOR THE YEAR 2012-13 ISSUED BY THE PURCHASER TO THE PETITIONER.
- EXT. P3 : COPY OF THE 'H' FORM NO.0006177 DATED NIL FOR THE YEAR 2012-13 ISSUED BY THE PURCHASER TO THE PETITIONER.
- EXT. P4 : COPY OF THE 'E1' FORM NO.A/322149 DATED 28.09.2012 FOR THE YEAR 2012-13 ISSUED BY THE PURCHASER TO THE PETITIONER.
- EXT. P5 : COPY OF THE FIRST APPEAL DATED 15.12.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13.
- EXT. P6 : COPY OF THE STAY PETITION DATED 15.12.2014 FOR THE YEAR 2012-13 ISSUED BY THE 2ND RESPONDENT.
- EXT. P7 : COPY OF THE RECOVERY NOTICE IN FORM NO.1 UNDER SECTION 7 OF KERALA REVENUE RECOVERY ACT 1968, NO.A5-61/15 DATED 13.01.2015 FOR THE YEAR 2012-13 ISSUED BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.3297 of 2015 (J)

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

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003. Against Ext.P1 assessment order, under the KVAT Act, for the assessment year 2012 - 2013, the petitioner has preferred Ext.P5 appeal, along with Ext.P6 stay petition, before the 2nd respondent. It is the case of the petitioner that even prior to consideration of the stay petition by the 2nd respondent, recovery steps have been initiated against him through Ext.P7 recovery notice, for recovery of the amounts confirmed in the assessment order.

2. I have heard Sri.P.N.D.Namboothiri, learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P6 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 2nd respondent shall contain

reasons for the decision arrived at by him.

4. Recovery steps initiated through Ext.P7 recovery notice shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P6 stay petition, and communicates the same to the petitioner.

The second respondent while considering the stay petition, shall also take note of Ext.P2 series of documents that have been produced by the petitioner in the writ petition, copies of which shall also be produced by the petitioner before the 2nd respondent at the time of adjudication of the stay petition.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/02/02/

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