

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. 3305 of 2015 (K)

PETITIONER:

**VEMBANAD TOURIST HOME,
OPP: KSRTC BUS STAND, VAIKOM - 686 141,
KOTTAYAM DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER, SRI.E.J.DAVIS.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS:-:

- 1. COMMERCIAL TAX OFFICER,
SPECIAL CIRCLE, KOTTAYAM - 686 002.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOTTAYAM - 686 001.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KOTTAYAM - 686 002.**

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:**

WP(C).No. 3305 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. - COPY OF ORDER NO.32051083094/12-13 DATED 16.12.2014
PASSED BY THE 1ST RESPONDENT U/S.25(1) OF THE KERALA
GENERAL SALES TAX ACT, 1963 FOR THE YEAR 2012-13, AFTER
ESTIMATING TURNOVER OF COOKED FOOD 15% OF IMFL
SALES ESTIMATED.**
- EXHIBIT P2. - COPY OF APPEAL IN FORM NO.29 DATED 27.01.2015,
SUBMITTED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT, AGAINST EXT.P1 ORDER.**
- EXHIBIT P3. - COPY OF STAY PETITION SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT, ALONG WITH EXT.P2 APPEAL.**

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 3305 of 2015 (K)

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

JUDGMENT

The petitioner is a registered dealer under the Kerala General Sales Tax Act, 1963 and 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.P2 appeal, along with Ext.P3 stay petition, before the 2nd respondent. 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 assessment order.

2.I have heard Sri.Tomson T. Emmanuel, 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.P3 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.

Recovery steps, pursuant to Ext.P1 assessment order shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P3 stay petition, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/02/02/