

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 3326 of 2015 (M)

PETITIONER(S):

**M.P.KURIAKOSE,
MANAGING TRUSTEE, SAMARPITHER TRUST, MUTTATHU HOUSE,
KALAMOZHI, CHATTAPPALAM P.O., WAYANAD DISTRICT.**

BY DR.GEORGE ABRAHAM

RESPONDENT(S):

- 1. AGRICULTURE, INCOME TAX AND COMMERCIAL TAX OFFICER,
V.A.T. CIRCLE, KALPETTA, WAYANAD DISTRICT.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KALPETTA, WAYANAD DISTRICT.**
- 3. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE.**
- 4. TAHASILDAR,
REVENUE RECOVERY, TALUK OFFICE, AMBALAVAYAL,
WAYANAD DISTRICT.**
- 5. VILLAGE OFFICER,
PADICHIRA VILLAGE, WAYANAD DISTRICT.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 3326 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE FIRST
RESPONDENT DATED 21.10.2014.**

EXHIBIT P2: TRUE COPY OF THE ASSESSMENT OF THE PENALTY DATED 23.10.2014.

**EXHIBIT P3: TRUE COPY OF THE APPEAL MEMORANDUM ALONG WITH PETITION
FOR STAY AS WELL AS AN APPLICATION FOR ADVANCEMENT OF
HEARING FILED BEFORE THE DEPUTY COMMISSIONER, KOZHIKODE.**

**EXHIBIT P4: TRUE COPY OF THE APPEAL FILED AGAINST EXHIBIT P2 ORDER
BEFORE THE 3RD RESPONDENT DT.11.12.2014.**

**EXHIBIT P5: TRUE COPY OF THE DEMAND NOTICE ISSUED FORM NO.10 ALONG WITH
FORM NO.1 DATED 8.1.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.3326 of 2015 (M)

.....
Dated this the 3rd day of February, 2015

JUDGMENT

Against Ext.P1 assessment order and Ext.P2 penalty order under the Kerala Value Added Tax Act, 2003, the petitioner preferred Ext.P3 appeal and stay petition before the 3rd respondent and Ext.P4 appeal and 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.P5 demand notice, for recovery of the amounts confirmed in the assessment order.

2. I have heard Sri.George Abraham, learned counsel appearing for the 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 3rd respondent to consider and pass orders on Ext.P3 stay petition within a period of two months after hearing the petitioner. Similarly, the 2nd respondent, or the authority competent to entertain revision petition against Ext.P2 penalty order, shall consider and pass orders on Ext.P4 stay petition preferred by the petitioner within a period of two months

from the date of a copy of this judgment, after hearing the petitioner. Pending consideration of the stay petitions by the authorities referred to above, and communication of the orders passed by them to the petitioner herein, further proceedings pursuant to Ext.P5 demand notice shall be kept in abeyance.

4. To enable the stay petitions against Ext.P2 penalty order to be disposed in accordance with this judgement, the Deputy Commissioner of Commercial Taxes, Wayanad shall ensure that Ext.P4 appeal and stay petition are immediately placed before the authority competent to decide the revision applications against Ext.P2 penalty order.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/03/02/

