

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4540 of 2015 (N)

PETITIONER(S):

**SHRI P. SIVAN, M/S.SHIJU AUTOMOBILES,
KANNAMPALLIBHAGAM, KAYAMKULAM - 690 502.**

**BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SRI.P.T.HAKIM**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY (TAXES),
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE ASSISTANT SECRETARY,
KVAT/AIT AND ST APPELLATE TRIBUNAL,
ADDITIONAL BENCH, KOTTAYAM,
KALLARACKAL BUILDING,
MISS EAST ROAD, KOTTAYAM - 686 001.**
- 3. THE DEPUTY TAHSILDAR,
KARTHIKAPALLY TALUK, VILLAGE,
ALAPPUZHA - 690 516.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 4540 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: A TRUE COPY OF THE ORDER NO.CR 2/2011 DTD.13.3.2012 ISSUED BY THE INTELLIGENCE OFFICER, SQUAD NO. III, COMMERCIAL TAXES, ALAPPUZHA.

EXT.P2: A TRUE COPY OF ORDER NO KVATA (ALPY) 1189/12 DTD.30.11.2012 ISSUED BY THE DEPUTY COMMISSIONER APPEAL - II, KOLLAM.

EXT.P3: A TRUE COPY OF THE APPEAL NO.559 OF 2013 BEFORE THE 2ND RESPONDENT DTD.4.10.2013.

EXT.P4: A TRUE COPY OF THE REVENUE RECOVERY NOTICE UNDER FORM 10 DATED 23.4.2013 ISSUED BY THE 3RD RESPONDENT.

EXT.P5: A TRUE COPY OF THE REVENUE RECOVERY NOTICE UNDER FORM-I DATED 23.4.2013 ISSUED BY THE 3RD RESPONDENT.

EXT.P6: A TRUE COPY OF THE NOTICE INTIMATING HEARING ISSUED BY RESPONDENT NO.2.

EXT.P7: A TRUE COPY OF THE MEMO FILED BY THE PETITIONER BEFORE THE DEPUTY COMMISSIONER, APPEAL - II, KOLLAM.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 4540 of 2015 (N)

.....
Dated this the 12th day of February, 2015

JUDGMENT

Against Ext.P1 penalty order under the Kerala Value Added Tax Act, 2003, the petitioner has approached the first appellate authority. By Ext.P2 order, the first appellate authority had rejected the appeal. Aggrieved by Ext.P2 order of the first appellate authority, the petitioner approached the 2nd respondent appellate Tribunal through Ext.P3 appeal. It is stated that, Ext.P3 appeal has been heard in part and the hearing is not complete.

2. The apprehension of the petitioner, however, is that during the pendency of the appeal before the 2nd respondent appellate Tribunal, revenue recovery proceedings pursuant to Exts.P4 and P5 may be continued against the petitioner.
3. I have heard Sri.Aswin Gopakumar, learned counsel for the petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader for the respondents.
4. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I dispose the writ petition with a direction to the 2nd respondent appellate Tribunal

to consider and pass orders on Ext.P3 appeal within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.

It is made clear that, revenue recovery proceedings pursuant to Exts.P4 and P5 notices shall be kept in abeyance till such time as the 2nd respondent appellate Tribunal passes orders, as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/12/02/