

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4691 of 2015 (J)

PETITIONER:

**FLORA TECHNOLOGIES, DOOR NO. XX/385,
CHEMMUNDA PARAMBIL SHOPPING COMPLEX,
NEW PRIVATE BUS STAND, ANGAMALY P.O.,
ERNAKULAM, PIN - 683 572, REPRESENTED BY ITS
MANAGING PARTNER MR. LINO THOMAS.**

**BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SRI.M.M.SHAJAHAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT OF KERALA,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. APPELLATE ASSISTANT COMMISSIONER,
OFFICE OF THE APPELLATE ASSISTANT
COMMISSIONER COMMERCIAL TAXES,
THEVARA P.O., ERNAKULAM - 682 013.**
- 3. COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
ANGAMALY P.O., ERNAKULAM DISTRICT, PIN - 683 572.**
- 4. DEPUTY TAHSILDAR (REVENUE RECOVERY),
OFFICE OF THE TALUK OFFICE, ALUVA,
ERNAKULAM, PIN - 683 101.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- | | |
|-------------|---|
| EXT.P1(A)- | COPY OF THE NOTICE UNDER SECTION 25 (1) OF KERALA VALUE ADDED TAX ACT FOR THE YEAR 2011 -2011. |
| EXT.P1(B)- | COPY OF THE REVISED NOTICE UNDER SECTION 25 (1) OF KERALA VALUE ADDED TAX ACT FOR THE YEAR 2011 -2012. |
| EXHIBIT-P2- | COPY OF THE ORDER NO. C3/8217/10 CT CLARIFYING THAT PRODUCT OF M/S.HOPES INKS AND COATING, KOTTAKKAL ISSUED BY THE AUTHORITY. |
| EXHIBIT-P3- | COPY OF THE OBJECTION FILED BY THE PETITIONER PURSUANT TO EXHIBIT-P1 NOTICE. |
| EXHIBIT-P4- | COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2011-2012 PASSED BY THE 3RD RESPONDENT. |
| EXHIBIT-P5- | COPY OF THE APPEAL AGAINST EXHIBIT-P4 ORDER. |
| EXHIBIT-P6- | COPY OF THE STAY PETITION FILED ALONG WITH EXHIBIT-P9 APPEAL. |
| EXHIBIT-P7- | COPY OF THE APPLICATION FOR CONDONATION DELAY PETITION FILED ALONG WITH EXHIBIT-P5 APPEAL. |
| EXT.P8(A)- | COPY OF THE NOTICE UNDER SECTION 7 OF THE REVENUE RECOVERY ACT ISSUED BY THE 4TH RESPONDENT PURSUANT TO EXHIBIT-P4 ORDER. |
| EXT.P8(B)- | COPY OF THE NOTICE UNDER SECTION 34 OF THE REVENUE RECOVERY ACT ISSUED BY THE 4TH RESPONDENT PURSUANT TO EXHIBIT-P4 ORDER. |

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4691 OF 2015 (J)

Dated this the 13th day of February, 2015

J U D G M E N T

Against Ext.P4 assessment order, under the KVAT Act, the petitioner has preferred Ext.P5 appeal, and Ext.P6 stay petition, and Ext.P7 petition for condonation of delay 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 through Exts.P8(a) and P8(b) revenue recovery notices for recovery of the amounts confirmed by Ext.P4 assessment order.

2. I have heard Sri.Shaji Chirayath, the learned counsel appearing for the petitioner and also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing 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:

1. The 2nd respondent shall consider and pass orders on Ext.P6 stay petition and Ext.P7 delay condonation petition within a period of two months from the date of

receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner by the assessment order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above, and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp