

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 5055 of 2015 (F)

PETITIONER :

**P.K.MOHANDAS,
S/O.KUMARAN, AGED 50 YEARS,
'UTHRADAM', KOVILPALLI,
KANHANGAD- 671 315, KASARAGOD DISTRICT,
PROPRIETOR, HOTEL LAND MARK, KANHANGAD.**

BY ADV. SRI.DALE P.KURIEN

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE,
KASARAGOD - 670 121.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, MINI BYE-PASS, ERANJIPALAM,
KOZHIKODE - 650 004.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KASARAGOD, CAMP OFFICE AT HOSDURG,
KASARAGOD - 670 121.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 5055 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE ASSESSMENT ORDER DATED 30/8/2014 PASSED BY 1ST RESPONDENT.**
- P1(A): TRUE COPY OF THE DEMAND NOTICE DATED 12/9/2014.**
- P1(B): TRUE COPY OF THE DEMAND NOTICE DATED 12/9/2014.**
- P2: TRUE COPY OF THE APPEAL MEMORANDUM DATED 1/11/2014.**
- P3: TRUE COPY OF DELAY CONDONATION PETITION DATED 1/11/2014.**
- P4: TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 21/10/2014 ISSUED BY THE 3RD RESPONDENT**
- P5: TRUE COPY OF THE STAY PETITION DATED 07/02/2015 FILED BEFORE THE SECOND RESPONDENT DEPUTY COMMISSIONER (APPEALS), KOZHIKODE.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5055 of 2015

.....
Dated this the 23rd day of February, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal, Ext.P3 delay condonation petition and Ext.P5 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. Heard Sri.Dale.P.Kurian, the learned counsel for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader 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:

- i. The 2nd respondent shall consider and pass orders on Ext.P3 delay condonation petition and Ext.P5 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Recovery steps pursuant to Exts.P1(a) and P1(b) demand notices and Exts.P4 revenue Recovery notice shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

