

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No.5138 of 2015 (N)

PETITIONER:

**DAEHSAN TRADING (INDIA) PVT.LTD
PROVIDENCE JUNCTION,OLD RAILWAY STATION ROAD,
KOCHI-682011,REPRESENTED BY ITS BRANCH MANAGER
SRI.V.G.NARAYANAN.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENTS:

- 1. ASSISTANT COMMISSIONER,COMMERCIAL TAXES,
SPECIAL CIRCLE-II,KOCHI-682015.**
- 2. THE VALUE ADDED TAX APPELLATE TRIBUNAL,
ERNAKULAM,KOCHI-682015.**
- 3. THE DISTRICT COLLECTOR,
ERNAKULAM,KOCHI-682030.**
- 4. THE DISTRICT COLLECTOR,
CHENNAI,TAMIL NADU.**

BY GOVT. PLEADER SRI.SUDHEESH KUMAR.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.5138 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT-P1: COPY OF ASSESSMENT ORDER DATED 27.08.2012 ISSUED BY THE
1ST RESPONDENT.**

**EXHIBIT-P2: COPY OF ORDER DATED 25.09.2014 OF THE DY.COMMISSIONER
(APPEALS), ERNAKULAM.**

EXHIBIT-P3: COPY OF APPEAL MEMORANDUM AGAINST EXT.P2.

EXHIBIT-P4: COPY OF STAY PETITION FILED IN EXT.P3 APPEAL.

**EXHIBIT-P5: COPY OF DEMAND NOTICE DATED 31.01.2015 ISSUED BY THE 4TH
RESPONDENT UNDER RR ACT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5138 of 2015
.....

Dated this the 18th day of February, 2015

J U D G M E N T

Against Ext.P1 assessment order under the under the Kerala Value Added Tax Act, the petitioner has preferred an appeal before the Deputy Commissioner (Appeals), Ernakulam. The said appeal was dismissed by Ext.P2 order. Aggrieved by Ext.P2 order, therefore the petitioner preferred Ext.P3 appeal and Ext.P4 stay petition before the 2nd respondent Tribunal. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued by Ext.P5 demand notice under the Revenue Recovery Act for recovery of the amounts confirmed by Ext.P1 assessment order.

2. Heard Sri.S.Anil Kumar, 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.P4 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Ext.P5 demand notice shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

3. 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.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

mns/

