

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5314 of 2015 (L)

PETITIONER:

**M/S.A.B. HATCHERIES, L.G.PALAYAM,
EDUPPUKULAM POST, PALAKKAD,
REPRESENTED BY ITS MANAGING PARTNER,
SRI.SUKUMARAN.R.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
IIIRD CIRCLE, PALAKKAD - 678 001.**
- 2. THE ASSISTANT COMMISSIONER(APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD - 678 001.**

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 5314 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE ASSESSMENT ORDER PASSED BY
1ST RESPONDENT FOR THE YEAR 2010-2011 DATED 10.10.2014.**

**EXHIBIT P2 : TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DATED 9.2.2015.**

**EXHIBIT P3 : TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 9.2.2015.**

**EXHIBIT P4 : TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY
1ST RESPONDENT FOR THE YEAR 2010-11 DATED 10.10.2014.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5314 OF 2015

Dated this the 20th 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 and Ext.P3 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 by Ext.P4 demand notice for recovery of the amounts confirmed by Ext.P1 assessment order.

2. Heard SriN.Muraleedharan Nair, 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 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.P4 demand 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 advertent 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

