

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.5624 of 2015 (C)

PETITIONER:

**P.M.ABDUL JABBAR,PROPRIETOR,LAMIYA SILKS,
PERINJANAM,THRISSUR DISTRICT.**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR**

RESPONDENTS:

- 1. COMMERCIAL TAX OFFICER-I,
KODUNGALLUR-680 128.**
- 2. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES,THRISSUR-680 001.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES,IRINJALAKUDA,PIN-680 126.**
- 4. STATE OF KERALA,REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY GOVT. 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:**

pk

WP(C).No.5624 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF THE ASSESSMENT ORDER FOR 2012-13 DTD.29.12.2013
ISSUED BY THE 1ST RESPONDENT.**

**EXT.P2:TRUE COPY OF THE APPEAL DTD.24.1.2015 AGAINST EXT.P1 FILED BY
PETITIONER BEFORE 2ND RESPONDENT ON 30.1.2015.**

**EXT.P2(a):TRUE COPY OF THE STAY APPLICATION FILED IN EXT.P2 APPEAL
BEFORE 2ND RESPONDENT ON 30.1.2015.**

**EXT.P2(b):TRUE COPY OF THE EARLY APPLICATION FILED IN EXT.P2 APPEAL
BEFORE 2ND RESPONDENT ON 30.1.2015.**

**EXT.P3:TRUE COPY OF THE DEMAND NOTICE BEARING NO.A2 2682/2014-15
DTD.16.2.2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5624 OF 2015 (C)

Dated this the 23rd day of February, 2015

J U D G M E N T

Against Ext.P1 assessment order, the petitioner has preferred Ext.P2 appeal, Ext.P2(a) stay petition and Ext.P2(b) early 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.P3 demand notice for recovery of the amounts confirmed by Ext.P1 assessment order.

2. Heard Sri.K.N.Sreekumaran, the learned counsel appearing for the petitioner and Sri.Sudheesh Kumar.S., 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:

1. The 2nd respondent shall consider and pass orders on Ext.P2(a) stay 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 Ext.P1 assessment order 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

prp