

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 5742 of 2015 (P)

PETITIONER :

**K.D.GEORGE,
S/O. DANIEL, AGED 50 YEARS,PAVANA, VYTTILA P.O.,
ERNAKULAM, COCHIN - 682 019.**

BY ADV. SRI.GEORGE KURUVILLA(ALAPPUZHA)

RESPONDENT(S):

- 1. ASSISTANT COMMISSIONER (WORKS CONTRACT),
OFFICE OF THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM, KOCHI - 682 019.**
- 2. THE INTELLIGENCE INSPECTOR,
SQUAD NO. I, COMMERCIAL TAXES, ALAPPUZHA.**
- 3. THE INTELLIGENCE OFFICER,
SQUAD NO. III, ERNAKULAM.PIN-682 019**
- 4. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.**

R1 TO R4 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE CERTIFICATE OF REGISTRATION.
- EXHIBIT-P2- TRUE COPY OF THE CONTRACT DOCUMENT DATED 14/03/2012.
- EXHIBIT-P3- TRUE COPY OF THE PURCHASE INVOICE DATED 16/10/2012
- EXHIBIT-P4- TRUE COPY OF THE FABRICATION LABOUR BILL DATED 29/10/2012.
- EXHIBIT-P5- TRUE COPY OF THE DELIVERY NOTE DATED 20/10/2012
- EXHIBIT-P6- TRUE COPY OF THE DETENTION NOTICE
- EXHIBIT-P7- TRUE COPY OF THE ORDER IN W.P(C) 25762/2012 OF THE HON'BLE
HIGH COURT OF KERALA
- EXHIBIT-P8- TRUE COPY OF THE BANK GUARANTEE DATED 03/11/2012.
- EXHIBIT-P9- TRUE COPY OF THE PETITIONER'S REPLY DATED 07/05/2014.
- EXHIBIT-P10- TRUE COPY OF THE PHOTOGRAPHS THE FABRICATED STRUCTURE.
- EXHIBIT-P11- TRUE COPY OF THE ORDER OF THE 3RD RESPONDENT DATED
03/06/2014.
- EXHIBIT-P12- TRUE COPY OF THE COVER IN WHICH EXHIBIT-P11 ORDER WAS SENT
TO THE PETITIONER.
- EXHIBIT-P13- TRUE COPY OF THE PETITIONER'S APPEAL
- EXHIBIT-P14- TRUE COPY OF THE STAY PETITION

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5742 of 2015 (P)

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Dated this the 24th day of February, 2015

JUDGMENT

Against Ext.P11 penalty order, passed under the Kerala Value Added Tax Act, 2003, the petitioner has preferred Ext.P13 appeal and P14 stay petition before the 4th 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 against the petitioner by Ext.P11 penalty order.

2. I have heard Sri.George Kuruvilla, learned counsel appearing for petitioner and Sri.Sudheesh Kumar, learned Government Pleader for the respondents.
3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 4th respondent to consider and pass orders on Ext.P14 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 4th respondent shall contain reasons for the decision arrived at by him.

4. Recovery steps for recovery of the amounts confirmed against the petitioner by Ext.P11 penalty order shall be kept in abeyance till such time as the 4th respondent passes orders, as directed, in Ext.P14 stay petition, and communicates the same to the petitioner.

The petitioner shall keep the bank guarantee furnished by him before the respondents alive during the pendency of the appeal before the appellate authority.

A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/02/