

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. 5840 of 2015 (D)

PETITIONER(S) :

M/S. EDAYAN ROCKS,  
KULATHOOR P.O., KOTTANGAL, MALLAPPALLY,  
REP. BY MANAGING PARTNER P.MATHEW ABRAHAM.

BY ADVS.SRI.ANIL D. NAIR  
SRI.R.SREEJITH  
SMT.C.S.SULEKHA BEEVI  
SMT.ROSIE ATHULYA JOSEPH  
KUM.SOUMYA PRAKASH  
SRI. MANEESHA KUMAR.

RESPONDENT(S) :

1. THE INTELLIGENCE OFFICER (IB),  
COMMERCIAL TAXES, PATHANAMTHITTA-689 645.
2. THE COMMISSIONER OF COMMERCIAL TAXES,  
THIRUVANANTHAPURAM-695 001.
3. THE COMMERCIAL TAX OFFICER,  
THIRUVALLA-689 101.
4. STATE OF KERALA,  
REPRESENTED BY THE SECRETARY, TAXES,  
THIRUVANANTHAPURAM-695 001.

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:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

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EXHIBIT P1- TRUE COPY OF THE ORDER UNDER SECTION 67 FOR THE YEAR  
2012-2013 DATED 15-11-2013 COMPLETED BY THE 1ST  
RESPONDENT.

EXHIBIT P2- TRUE COPY OF THE REVISION ORDER DATED 02-12-2014 ISSUED  
BY THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,  
PATHANAMTHITTA.

EXHIBIT P3- TRUE COPY OF THE REVISION DATED 7-02-2015 FILED BY THE  
PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y.  
2012-2013.

EXHIBIT P4- TRUE COPY OF THE STAY PETITION DATED 7-02-2015 FILED  
BEFORE THE SECOND RESPONDENT FOR THE A.Y. 2012-2013.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.5840 of 2015

.....  
Dated this the 24<sup>th</sup> day of February, 2015

**J U D G M E N T**

Against Ext.P1 penalty order, the petitioner had preferred a revision before the first revisional authority. By Ext.P2 order, the said revision was dismissed. Thereafter, the petitioner had preferred Ext.P3 further revision, along with Ext.P4 stay petition before the 2<sup>nd</sup> 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 penalty order.

2. Heard Sri.Anil D.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 2<sup>nd</sup> 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. Recovery steps for recovery of amounts confirmed against the petitioner by Ext.P1 penalty order shall be kept in abeyance till orders are passed by the 2<sup>nd</sup> respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2<sup>nd</sup> 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 revision.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

mns

