IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 5915 of 2015 (L)

PETITIONER(S):

RAZAK MOHAMMED SAHEB,
M/S.AMINAS HOME CENTRE,
CHANGARAMKULAM, NANNAMUKKU PO
MALAPPURAM DISTRICT.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT(S):
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1. COMMERCIAL TAX OFFICER,
PONNANI-679 577.

2. ASST. 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 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 5915 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : **COPY OF ORDER ISSUED BY THE 1ST RESPONDENT.**

EXT P2 : **COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

EXT P3 : **COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.5915 of 2015

Dated this the 25th 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 Exts.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 for recovery of the amounts confirmed by Ext.P1 assessment order.

2. Heard Sri.Harisankar V.Menon, 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. 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.

iii. 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