

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. 6008 of 2015 (A)

PETITIONER(S) :

**JOEMON RAJAN,
M/S.MANGALY ROCK PRODUCTS, MANJAPRA,
THURAVOOR, ANGAMALY-688 532.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI**

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, ANGAMALY, ERNAKULAM DISTRICT-683 572.**
- 2. THE ASST.COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM-682 011.**
- 3. THE DEPUTY TAHSILDAR,
REVENUE RECOVERY, ALUVA-683 101.**

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:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 :** TRUE COPY OF THE ASSESSMENT ORDER NO.32150836901/2007-08
DATED 05-05-2014 FOR THE YEAR 2007-08 ISSUED BY
THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P2 :** TRUE COPY OF THE FIRST APPEAL DATED 09-07-2014 FILED BY
THE PETITIONER BEFORE THE 2ND RESPONDENT FOR
THE YEAR 07-08.
- EXT.P3 :** TRUE COPY OF THE DELAY CONDONATION PETITION
DATED 09-07-2014 FILED BY THE PETITIONER FOR THE YEAR 07-08
BEFORE THE 2ND RESPONDENT.
- EXT.P4 :** TRUE COPY OF THE STAY PETITION DATED 09-07-2014 FOR THE YEAR
07-08 ISSUED BY THE 2ND RESPONDENT.
- EXT.P5 :** TRUE COPY OF THE RECOVERY NOTICE IN FORM NO.1, UNDER
SECTION 7 OF KERALA REVENUE RECOVERY ACT 1968, NO.R1
2015/61/7/803 DATED 19-01-2015 FOR THE YEAR 07-08 ISSUED BY
THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO. 6008 OF 2015 (A)

Dated this the 25th day of February, 2015

J U D G M E N T

Against Ext.P1 assessment orders under the KVAT Act, the petitioner has preferred Ext.P2 appeal, Ext.P3 condonation of delay application and Ext.P4 stay petitions before the 2nd respondent. Ext.P5 is the Revenue Recovery notice. 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 order.

2. Heard Sri.P.N.D. Namboothiri, 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 condonation of delay application and 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 petitioner by Ext.P1 assessment orders 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/revision.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE