

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 6109 of 2015 (K)

PETITIONER(S):

**M/S.V & S ENGINEERING WORKS,
ONE WAY ROAD, KATTAPPANA,
KUMILY, PIN-685 514,
REPRESENTED BY ITS PARTNER SURUMON K.**

BY ADV. SRI.E.A.BIJUMON

RESPONDENT(S):

**1. THE COMMISSIONER,
(APPEAL) DEPARTMENT OF COMMERCIAL TAXES,
KOTTAYAM-2**

**2. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES DEPARTMENT,
KATTAPPANA - 685 508.**

**3. DEPUTY TAHSILDAR, REVENUE RECOVERY
KATTAPPANA - 685 508.**

*** ADDITIONAL R4 IMPEADED.**

**4. THE DEPUTY COMMISSIONER (APPEAL),
DEPARTMENT OF COMMERCIAL TAXES,
KOTTAYAM - 2.**

*** ADDITIONAL R4 IMPEADED AS PER ORDER DTD.2.3.2015 IN I.A.3119/2015.**

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 6109 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1:TRUE COPY OF THE ORDER DTD 25/9/2014.

EXT. P2:TRUE COPY OF THE DEMAND NOTICE DTD 25/9/2014.

EXT. P3:TRUE COPY OF THE APPEAL DTD 23/2/2015.

EXT. P4:TRUE COPY OF THE STAY PETITION DTD 23/2/2015.

EXT. P5:TRUE COPY OF THE REVENUE RECOVERY NOTICE DTD 6/12/2014.

EXT. P6:TRUE COPY OF THE ASSESSMENT ORDER DTD 24/9/2014.

EXT. P7:TRUE COPY OF THE DEMAND NOTICE DTD 24/9/2014.

EXT. P8:TRUE COPY OF THE APPEAL DTD 23/2/2015.

EXT. P9:TRUE COPY OF THE STAY PETITION DTD 23/2/2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6109 of 2015

.....
Dated this the 2nd day of March, 2015

J U D G M E N T

Against Ext.P1 penalty order and Ext.P6 assessment order for the assessment year 2011-2012 under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P3 and P8 appeals together with Exts.P4 and P9 stay petitions before the additional 4th 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 penalty order and Ext.P6 assessment order.

2. Heard Sri.Bijumon.E.A, 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 additional 4th respondent shall consider and pass orders on Exts.P4 and P9 stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Ext.P5 demand notice shall be kept in abeyance till orders are passed by the additional 4th respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the additional 4th 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 appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

