

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 6317 of 2015 (L)

PETITIONER(S):

**P.H.HAMEED,BADARIA TIMBER DEPOT AGED 54 YEARS
EDAVETTY P.O., THODUPUZHA (PUTHENVEETIL HOUSE
KALAYANTHANI P.O. THODUPUZHA)**

**BY ADVS.SRI.MOOSA E.S.
SRI.VARGHESE PARAMBIL**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,IDUKKI, PAINAVU P.O. -685 603.**
- 2. THE DEPUTY COMMISSIONER (APPEALS) KOTTAYAM,
COMMERCIAL TAX DEPARTMENT, PIN-686 001.**
- 3. COMMERCIAL TAX OFFICER,1ST CIRCLE,
THODUPUZHA 685584.**
- 4. TAHSILDAR THODUPUZHA
PIN- 685584.**

BY GOVERNMENT PLEADER SRI.SUDHEESHKUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-02-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'(S) EXHIBITS

- EXT.P1: COPY OF ORIGINAL ASSESSMENT ORDER 2010-11 DATED 13.12.2014**
- EXT.P2: COPY OF APPEAL PETITION WITH STAY PETITION 2010-11**
- EXT.P3: COPY OF CLOSING STOCK DETAILS ASSESSMENT YEAR 2010-11**
- EXT.P4: COPY OF REQUEST FOR REVISE THE RETURN FOR 2010-11**
- EXT.P5: COPY OF APPEAL AGAINST PENALTY PROCEEDINGS.**
- EXT.P6: COPY OF NOTICE FOR DISTRAIN THE MOVABLE PROPERTY IN FORM NO.1 UNDER THE REVENUE RECOVERY ACT DATED 11.02.2015 DEMAND NOTICE.**
- EXT.P7: NOTICE IN FORM NO.10 FOR ATTACH THE IMMOVABLE PROPERTY UNDER THE REVENUE RECOVERY ACT.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

STK

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.6317 of 2015

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Dated this the 27th 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 stay petition before the 2nd respondent. Similarly against orders confirming penalty, the petitioner has preferred Ext.P5 appeal and stay petition before the 2nd respondent. The apprehension of the petitioner is that recovery steps for recovery of the amounts confirmed against the petitioner by the assessment order and the penalty order will be proceeded with, pending disposal of the stay petition by the 2nd respondent.

2. Heard Sri.E.S.Moosa, 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 the stay petitions preferred by the petitioner against the assessment order and

the penalty order within a period of two months from the date of receipt of a copy of the judgment, after hearing the petitioner.

ii. Recovery steps for recovery of amounts confirmed against petitioner by the assessment order and penalty order against which the appeals have been filed 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

