

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. 6422 of 2015 (C)

PETITIONER:

**M/S. PERIYAR ROCKS,
REP. BY ITS MANAGING PARTNER PAUL WILSON, 11/442,
KANNIMANGALAM, NADUVATTOM P.O., KALADY VIA.,
ERNAKULAM DISTRICT-683 574.**

BY ADV. SRI.JIJO JOSEPH.

RESPONDENTS:

- 1. STATE OF KERALA,
REP. BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF COMMERCIAL TAXES,
TRIVANDRUM-695 001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT COMMERCIAL TAXES,
ERNAKULAM-682 015.**
- 3. THE INTELLIGENCE OFFICER, SQUAD NO.VIII,
COMMERCIAL TAXES, ERNAKULAM-682 015.**
- 4. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, MUVATTUPUZHA-686 661.**

BY GOVT. PLEADER SRI.SUDHEESH KUMAR.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- TRUE COPY OF THE PENALTY ORDER DATED 13/11/2013 PASSED BY THE 3RD RESPONDENT U/S.67(1)
- P2:- TRUE COPY OF THE MEMORANDUM OF STATUTORY TAX APPEAL NO. 397/2014 DATED 07/02/2014.
- P3:- TRUE COPY OF THE DELAY CONDONATION PETITION FILED ALONG WITH THE APPEAL DATED 07/02/2014.
- P4:- TRUE COPY OF THE STAY PETITION FILED ALONG WITH THE APPEAL DATED 07/02/2014.
- P5:- TRUE COPY OF THE REVENUE RECOVERY DEMAND NOTICE DATED 13/10/2014 ISSUED BY THE 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.6422 of 2015 (C)

.....
Dated this the 27th day of February, 2015

JUDGMENT

Against Ext.P1 penalty order, passed under the Kerala Value Added Tax Act, 2003, the petitioner has preferred Ext.P2 appeal along with Ext.P3 delay condonation petition and Ext.P4 stay petition before the 2nd respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 2nd respondent, recovery steps have been initiated against him through Ext.P5 demand notice, for recovery of the amounts confirmed in the assessment order.

2.I have heard Sri.Jijo Joseph, learned counsel appearing for petitioner and Sri.Sudheesh Kumar, learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Exts.P3 delay condonation petition and Ext.P4 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 2nd respondent shall contain reasons for the decision

arrived at by him.

Recovery steps, pursuant to Ext.P5 demand notice shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed above, and communicates the same to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/02/03/