

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).NO. 7051 OF 2015 (F)

PETITIONER(S):

**METROTEX,
KASMISONS ESTATE, ABOVE AXIS BANK,
VYTTILA JANATHA JN., S.A. ROAD, ERNAKULAM, KOCHI - 19,
(REPRESENTED BY THE MANAGING PARTNER IJAZ K.M).**

**BY ADVS.SRI.K.N.SREEKUMARAN,
SRI.P.D.UNNIKKANNAN NAIR.**

RESPONDENTS:-

- 1. ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE-I,
ERNAKULAM - 682 015.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM - 682 015.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM AT KAKKANAD - 682 030.**
- 4. KVAT TRIBUNAL,
COMMERCIAL TAXES, ERNAKULAM- 682 015,
REPRESENTED BY ITS SECRETARY.**
- 5. CHIEF MANAGER,
FEDERAL BANK, MARINE DRIVE BRANCH,
ERNAKULAM - 682 031.**

R1 TO R4 BY GOVT. PLEADER SRI.SUDHEESH KUMAR.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. TRUE COPY OF THE ASSESSMENT ORDER FOR THE RETURN PERIOD ISSUED BY 1ST RESPONDENT FOR 4/14.
- EXHIBIT P2. TRUE COPY OF THE ASSESSMENT ORDER FOR THE RETURN PERIOD ISSUED BY 1ST RESPONDENT FOR 5/14.
- EXHIBIT P3. TRUE COPY OF THE ASSESSMENT ORDER FOR THE RETURN PERIOD ISSUED BY 1ST RESPONDENT FOR 6/14.
- EXHIBIT P4. TRUE COPY OF THE ASSESSMENT ORDER FOR THE RETURN PERIOD ISSUED BY 1ST RESPONDENT FOR 7/14.
- EXHIBIT P5. TRUE COPY OF THE ASSESSMENT ORDER FOR THE RETURN PERIOD ISSUED BY 1ST RESPONDENT FOR 8/14.
- EXHIBIT P6. TRUE COPY OF THE ACKNOWLEDGMENTS DATED 08.01.2015 AND 13.01.2015 OF TAX BY THE 3RD RESPONDENT.
- EXHIBIT P7. TRUE COPY OF THE ORDER DATED 20.02.2014 IN KVATA 3061/2014 BY THE 2ND RESPONDENT.
- EXHIBIT P8. TRUE COPY OF THE COMMON ORDER DATED 20.02.2015 IN KVATA NOS.3062/2014 TO 3065/2014 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P9. TRUE COPIES OF THE NOTICE IN FORM 3 BEARING NOS.A5-4191, 4193, 4194, 4197 & 4198/14 DATED 19.02.2015 ADDRESSED TO THE 5TH RESPONDENT.
- EXHIBIT P10. TRUE COPY OF THE LETTER DATED 13.01.2015 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
- EXHIBIT P11. TRUE COPY OF THE APPEAL MEMORANDUM FOR 4/2014 FILED BEFORE THE 4TH RESPONDENT.
- EXHIBIT P11(A). TRUE COPY OF THE STAY PETITION FOR 4/2014 FILED BEFORE THE 4TH RESPONDENT.
- EXHIBIT P12. TRUE COPY OF THE APPEAL MEMORANDUM FOR 5/2014 FILED BEFORE THE 4TH RESPONDENT.
- EXHIBIT P12(A). TRUE COPY OF THE STAY PETITION FOR 5/2014 FILED BEFORE THE 4TH RESPONDENT.

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EXHIBIT P13. TRUE COPY OF THE APPEAL MEMORANDUM FOR 6/2014 FILED BEFORE THE 4TH RESPONDENT.

EXHIBIT P13(A). TRUE COPY OF THE STAY PETITION FOR 6/2014 FILED BEFORE THE 4TH RESPONDENT.

EXHIBIT P14. TRUE COPY OF THE APPEAL MEMORANDUM FOR 7/2014 FILED BEFORE THE 4TH RESPONDENT.

EXHIBIT P14(A). TRUE COPY OF THE STAY PETITION FOR 7/2014 FILED BEFORE THE 4TH RESPONDENT.

EXHIBIT P15. TRUE COPY OF THE APPEAL MEMORANDUM FOR 8/2014 FILED BEFORE THE 4TH RESPONDENT.

EXHIBIT P15(A). TRUE COPY OF THE STAY PETITION FOR 8/2014 FILED BEFORE THE 4TH RESPONDENT.

EXHIBIT P16. TRUE COPY OF THE ACKNOWLEDGMENT OF THE ABOVE APPEAL BY THE 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7051 OF 2015 (F)

Dated this the 5th day of March, 2015

J U D G M E N T

Against Exts.P1 to P5 assessment orders, the petitioner had preferred appeals before the first appellate authority. By Exts.P7 and P8 orders, the first appellate authority rejected the appeals. The petitioner thereafter preferred Exts.P11 to P15 appeals, together with Exts.P11(a) to Ext.P15(a) stay petitions, before the 4th respondent. It is the case of the petitioner that even prior to considering the stay petitions, the respondents are initiating coercive steps for recovery of the amounts due from the petitioner pursuant to Exts.P7 and P8 appellate orders.

2. I have heard Sri.K.N.Sreekumaran, the learned counsel appearing for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader appearing 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:

1. The 4th respondent shall consider and pass orders on Exts.P11(a) to P15(a) stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Exts.P7 and P8 orders shall be kept in abeyance till orders are passed by the 4th respondent as directed above and communicated to the petitioner.

3. I make it clear that the petitioner will be free to operate his bank account during the period of operation of the stay order.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp