

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No.7181 of 2015 (W)

PETITIONER:

**FASLUDEEN P.M,PROPRIETOR,P.S.CEMENTS,
ARATTUPUZHA P.O,HARIPAD,ALAPPUZHA-690515.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS
VENUGOPAL D**

RESPONDENTS:

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES,HARIPAD,
ALAPPUZHA-678001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, BAPPUJI NAGAR,
ASRAMAM,KOLLAM-691002.**
- 3. THE DEPUTY TAHSILDAR (RR),TALUK OFFICE,
KARTHIKAPALLY,ALAPPUZHA-678001.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF ANNUAL RETURN E-FILED ON 4.5.2012 BEFORE 1ST RESPONDENT.

EXT.P2:TRUE COPY OF THE TRADING,PROFIT & LOSS ACCOUNT AND FORM 13 & 13A AUDIT REPORT FILED BEFORE 1ST RESPONDENT.

EXT.P3:TRUE COPY OF ASSESSMENT ORDER DATED 12.12.2014 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

EXT.P4:TRUE COPY OF THE FORM 29 APPEAL MEMORANDUM DATED 16.2.2015 FILED BEFORE 2ND RESPONDENT.

EXT.P5:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR ABSOLUTE STAY DATED 16.2.2015 FILED BEFORE 2ND RESPONDENT.

EXT.P6:TRUE COPY OF RR NOTICES ISSUEWD U/S 7 AND 34 OF THE RR ACT BY 3RD RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7181 of 2015

.....
Dated this the 6th day of March, 2015

J U D G M E N T

Against Ext.P3 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P4 appeal and Ext.P5 stay petition before the 2nd respondent. 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.P3 assessment order.

2. Heard Sri.V.Devananda Narasimham, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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.P5 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.P3 assessment order 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 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

