

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7375 of 2015 (V)

PETITIONER(S):

**MAMTA SAHU,
PROPRIETRESS, POINEER TRADERS, KALYAN HOSPITAL ROAD
MANACAUD, THIRUVANANTHAPURAM-695 009.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER (ENQUIRY)
TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM-695 002.**
- 2. THE ASSISTANT COMMISSIONER (ASSESSMENT)
COMMERCIAL TAXES (SPECIAL CIRCLE), TAX TOWERS
KARAMANA, THIRUVANANTHAPURAM-695 002.**
- 3. COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST, WALAYAR, PALAKKAD DISTRICT,
PIN-688 624.**
- 4. THE MANAGER
STATE BANK OF INDIA, ELAMAKKARA, ERNAKULAM
KOCHI-682 314.**
- 5. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, TAX TOWERS, KARAMANA
THIRUVANANTHAPURAM-695 002.**

**R1-3 & 5 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN
R4 BY SRI.R.S.KALKURA, SC, SBI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. COPY OF THE BANK GUARANTEE DATED 8/8/2012.**
- EXT.P1(A). COPY OF SIMPLE BOND DATED 8/8/2012.**
- EXT.P1(B). COPY OF LETTER DATED 7/8/2014 OF THE 4TH RESPONDENT**
- EXT.P2. COPY OF THE ORDER DATED 26/11/2014 ISSUED BY THE 1ST RESPONDENT**
- EXT.P3. COPY OF THE APPEAL MEMORANDUM AGAINST EXT.P2.**
- EXT.P4. COPY OF THE LETTER DATED 20/1/2015 OF THE 1ST RESPONDENT ADDRESSED TO THE 4TH RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.7375 of 2015 (V)

.....
Dated this the 9th day of March, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003. Against Ext.P2 penalty order, the petitioner preferred Ext.P3 appeal before the 5th respondent. It is stated that at the time of detention, the petitioner had already furnished a Bank Guarantee as evidenced by Ext.P1 which represented 50% of the security deposit amount demanded at the time of detention. 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 against the petitioner by Ext.P2 penalty order.

2. I have heard Sri.S.Anil Kumar, learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, 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 and taking note of the submission of the learned counsel for the petitioner that, at the time of detention, 50% of the security deposit was already secured by way of a Bank Guarantee, I dispose the writ petition with a direction to the 5th respondent to consider and pass orders

on Ext.P3 appeal, 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.

Recovery steps initiated through Ext.P4 shall be kept in abeyance till such time as the 5th respondent passes orders, as directed and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/03/

